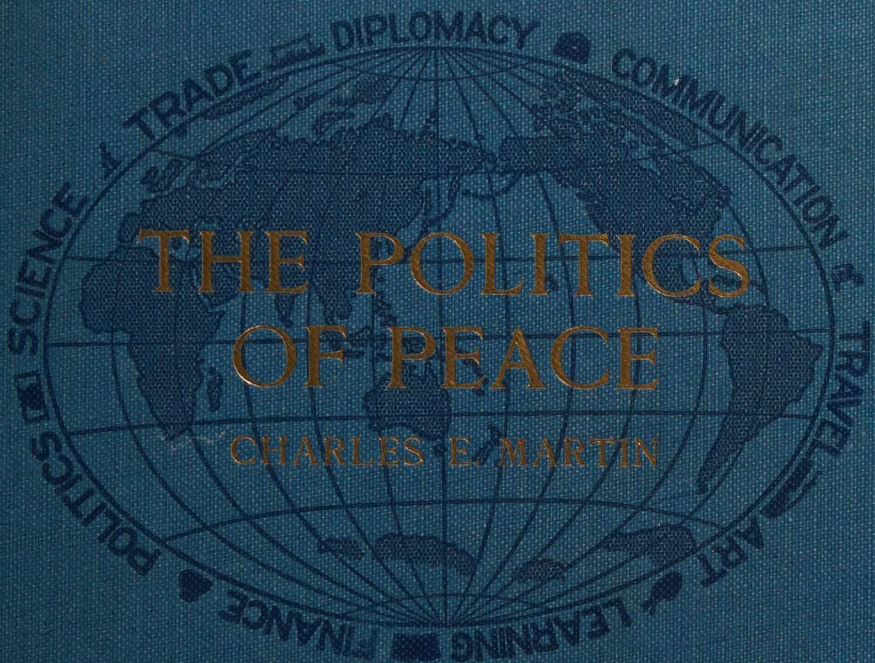

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CHARLES E. MARTIN

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THE POLITICS OF PEACE

BY

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1929

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TO

HERBERT HOOVER

CIVIC AND SOCIAL ENGINEER
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OF PEACE

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PREFACE

A new politics is essential to a new age. The great international society, acting through its constitutional agencies, the nation states, has decreed a declaration of independence of war. And just as the Declaration of Independence of 1776 was a protest against abuses of domestic liberty, so the Pact of Paris is a solemn renunciation of international anarchy. The institution of war, which has from the beginning been so much a part of civilization, is displaced by the institution of peace. And politics, so often in its existing, prospective, and retrospective forms the politics of war, is to become the politics of peace.

The nations and the peoples of the world must sense the change. The renunciation of war no longer belongs to the world of idealism. The aims of Grotius and of the Abbé de Saint-Pierre have become the aims of the nations. Peace is the greatest burden of the world's conscience, and the greatest purpose and object of its solemn covenants. The theory of the sword, on which doctrine the origin of almost every national state has rested, must be abandoned for the principle of peace. The state, originating in blood, must henceforth live, move, and have its being through the arts of peace. The principle of conquest must yield to that of interdependence, and the practice of slaughter to that of protection. The state becomes an institution of peace, and the government an agency of peace. In the words of Professor James T. Shotwell, "To eliminate war as an instrument of national policy is to restate the relations of nations with each other." And just as Machiavelli and Treitschke interpreted to the people of their times the politics of war, so there must be today a statement and an interpretation of the politics of peace.

Such a restatement cannot be a mere expression of an ideal. It cannot be a philosophical discussion of what some deem to be right and just. It cannot be a sermon. It must

be a rule of conduct, a guiding principle leading to a controlling practice, a program. It cannot be restricted to the narrow field of law. It must embrace the whole of man's social thought and activity, which is the field of politics. Men who wrote of war defended it as a theory, but glorified it as a practice. They sought to determine, not alone the thinking, but more especially the conduct of a nation. The statesmanship of our public servants and the statecraft of the nations must henceforth be even more active in the interests of peace. In this book some suggestions are modestly offered as to principles which might serve as a basis for future action, and some practices which might yield effective peace returns. There are thus restated the relations of the nations with each other, on this new foundation, and there is in part constructed a new politics, in the form of the *politics of peace.*

The politics of peace is strictly neither national nor international. It must begin with the modern nation-state and must find expression in the international order. Order within the state not only has lessons for order in the international society, but international society must have its beginning there. The state must learn to discipline its international conduct as it limits itself in the interest of political and civil liberty. Constitutionalism, the foundation of law and order in our modern, democratic states, must find its way, in spirit and method, into world politics. Moreover, the basic interests of the individual, the state, and the great international society are now so interdependent, so interrelated, and so compounded, that they form together imperceptible units in the fabric of peace. Self-discipline for the individual; self-government for the state; self-restraint for the great international society! These are the cardinal objectives of the politics of peace!

There must be a constitution of peace and organization for it. We have had a good, but not an abundant, measure of these things. The good life must now lead to the abun-

dant life. The form of our constitution and organization for peace must, as M. Briand declared, be the work of the future. Here again the example of the nation-state can serve the great international society. Will the future peace organization be a federal system, like the United States of America, with each unit having the same legal position, but with all necessary local and national autonomy? Or will it take on the form of the British imperial system, with great diversities as to form and spirit of government, measure of local autonomy, race admixture, and geographical location? Will the constitution of peace be a fixed, written, rigid, and limited one? Or will it be flexible, unwritten, customary, and without precise limitations? These are questions for the future. Nevertheless the institutions of the nation-state may point the way. Indeed, the sovereignty and the nationalism of the state may well be divested of their terror and horror. The powers of the state will be devoted actively to the maintenance of peace. It is something like the Chinese view of health. Occidentals seek to avoid or to get rid of disease. The Chinese seek to keep their health. The old politics sought, in its best form, to avoid war. The modern state can now, through the new politics of peace, devote its energies to securing peace! And more challenging than all the revelations of modern science and invention is the prospect of a peaceful and ordered world. The politics of peace is enthroned.

Those to whom I am indebted are legion. A few acknowledgments must suffice. After some disappointment due to the failure of legal processes in international relations, Dr. Nicholas Murray Butler revealed that the lasting problem of peace must be attacked in the field of politics. The stimulating ideas of Manley O. Hudson, often different from my own, have influenced me not a little. The suggestions and criticisms of Walter B. Pitkin have helped me to follow the main stream and to navigate many rapids. The criticisms of William Hawley Davis,

Editor of Stanford University Press, and of Graham H. Stuart, Editor of Stanford Books in World Politics, suggestions as to both substance and style, have guided and sustained me at every stage of this undertaking. Courage and inspiration have come from the contemporary work of two men: James T. Shotwell, a man of action in the world of ideas; and Herbert Hoover, a man of ideas in the world of action. They may well be regarded as the founders of a new politics of peace.

Acknowledgment is due Doubleday, Doran and Company for permission to quote from Herbert Hoover's *American Individualism,* 1922.

The author has not, at the inception of a new world era which represents so great a break with the past, attempted to construct a definitive politics of peace. That will be the task of the ages to come. He will be more than compensated if he has succeeded in the modest attempt to point the way.

CHARLES E. MARTIN

SEATTLE, WASHINGTON
March 15, 1929

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INTRODUCTION

This book has one clear aim. It endeavors to describe and appraise political institutions and practices in the light of their value to the new world order which is steadily assuming shape and vitality. While we consider many trends and institutions of earlier times, our survey is not in any sense historical. We look into the past only in so far as it seems to contain useful lessons for the men and women who today are striving to bring into being the Great Society which was Woodrow Wilson's dream. And we shall criticize men and their theories only with this same constructive ideal as our guide.

The world's greatest need is peace. And peace is its greatest problem. On every hand we hear rumblings of war. And from those who know best we hear predictions that when the next war comes it will bring devices and disasters that will make the Great War of 1914–18 seem like the pleasant play of innocent children. Poison gas, whose every drop, in liquid form, can slay a hundred men, will rain from the clouds, as fleets of war planes, flying faster than eye can trace their flight, shower devastation on the defenseless countryside. Super-tanks, super-trenches, super-guns, and super-strategy will combine to achieve their vile victories; and hell itself will seem a happy summer resort to the herds who are drafted for this universal conflict.

While chemists, metallurgists, and strategists are blindly co-operating to this murderous end, what can civilized people be doing to defeat it? Well, there are several things which they must accomplish, and not the least among these is educating the intelligent classes in every country in the ways and means of modern politics. For wars can come only through political systems and political methods. Apart from states and governments and officials, not even a tiny war could be conceived nowadays. Only a

government is in a position to suggest attacking another country. Only a government is in a position to anticipate and to organize against attacks from without or from within. Only a government can divert vast funds to the manufacture of war devices or to the training of immense armies. Individual business men, if left to themselves, would devote themselves peacefully to the problem of making profits. Individual scientists, if not intrigued or drafted by governments, would pursue their researches along lines which lead to progress, to peace, and to plenty. And the ordinary farmer and workingman, unless subjected to government influences, would never dream of fighting distant people.

Now it is one of the greatest misfortunes of our new civilization that our ablest men and women devote themselves seldom to politics but regularly to business, to finance, to engineering, to scientific research, and to the arts. Politics does not attract them, and government fails to offer them either an adequate outlet for their abilities or a fair reward for their superior services. Contrast the rank and file of our officeholders with the rank and file of men in charge of other affairs; the inferiority of the former is little short of appalling. So too with the professional politicians, as one may see after an hour's perusal of the Teapot Dome crime or the treacheries of Indiana's party leaders or any of a score of other equally vicious cases.

What Americans think of the old order of politics can be easily read in their behavior on election day. In 1924 there were about 57,000,000 of our citizens who had the right to vote for their choice as President of the United States. But 28,000,000 of them did not go to the polls. In 1926, when the day came to vote for Congressmen, about 40,000,000 qualified voters stayed away from the polls. In 1928 the showing was better but still unsatisfactory. Why? Well, of course, many personal reasons enter into

the matter; but a careful analysis of several thousand sample cases brings to light the significant fact that most of the men and women who fail to vote do so deliberately and for a definite reason; they lack faith and interest in the ballot as a political instrument. They admit that it seems to them futile, and this chiefly because the verdict of the polls does not bind officeholders to any particular policy.

Let us not argue whether these millions are right or wrong. Let us state, however, in language unequivocal, the stern necessity of winning all of them back to an active interest in our government. How can this be accomplished? Certainly not by the method recently adopted by Australia, which, confronted by the same danger, passed a law imposing a fine of fifty dollars on each voter who fails to go to the polls. The better way is to teach citizens the significance and the ins and outs of politics so that they can make their votes effective, if not by the present system, then by some better one which they can themselves design and bring into being.

To make matters worse, people study the larger political issues less carefully and are heedless of the acts and commitments of political parties. Bad as all this is in the fields of local and national affairs, it is infinitely worse in world politics. Every editor knows how hard it is to awaken interest in the daily events of Downing Street, the Quai d'Orsay, Geneva, and Wilhelmstrasse. A few follow these closely, with deep appreciation of their potentialities for peace or war. But the few represent less than one out of every thousand Americans. Out of the 120,000,000 people now living within our boundaries continental, are there 120,000 who give as serious and as sustained attention to world politics as the average citizen gives to baseball or to his evening's radio program? The circulation of our serious political journals indicates no such number.

This is why I maintain that perhaps the most urgent of all educational tasks in America is to teach the politics

of the new world order—the politics of peace and progress. It is not the task of advocating any special policy or program. Rather is it the task of making clear, first of all, how the various world powers are governed, what their outstanding policies have been, and how all these must be altered in order to serve the new and nobler ends of the Great Society. To understand the advantages and the weaknesses of existing national methods is the beginning of political wisdom.

The situation is such that classical works on the subject do not suffice. The masters of politics, from Aristotle down to the authors of the *Federalist,* all lived in days when travel was difficult as well as slow, when the factory system and its accompanying financial and distributional mechanisms had not yet arisen, and when people in any one part of the world lived wholly apart from people elsewhere, producing what they consumed and selling little or nothing abroad. This is why, in spite of the profundities in many ancient treatises on government and the state, we citizens of the twentieth century can learn relatively little from the masterpieces of the eighteenth century and earlier.

The basic fact on which the politics of the Great Society must be built is the interdependence not only of all nations but also of all the industries and all the sciences. This fact has been discovered within the past generation. It is known as yet to only a few observers. The masses of mankind still live and think in an unreal realm of politics where men and nations exist independently of one another and fight against one another for existence. And, to make matters worse, this error is perpetuated by innumerable agents of government, often sincerely, but often for the selfish purpose of enhancing their personal power.

The new politics of peace has not sprung into existence overnight. It is coming, as the Industrial Revolution has

long been coming, a little every year, now faster in one region than in another, now confused by irrelevant issues, now suddenly purified by a crisis. The temptation is strong to think that a genuine realization of existing interdependence broke on the world for the very first time when the Great War gave violent and horrible demonstration of it. Equally strong, too, is the temptation to suppose that the new politics of peace was first embodied in the idea of a League of Nations toward the close of that war. But these views are mistaken. Insight has come in feeble spurts down the centuries and has only recently been broadening and brightening. Grotius had a very clear notion of the matter, within certain limits, though of course he lived too early to appreciate the extent of economic interdependence. And other thinkers from time to time have touched fringes of the future philosophy of statecraft.

Politics has suffered in many ways from the growing interdependence of human beings. Above all, it has become bewilderingly complex, and this is probably one of the reasons why many people shun it. In ancient times, when cities were states and all the citizens gathered together in the market place to discuss their common affairs, all things were very simple—or at least seemed so. All of the members of the state were present and visible. The entire territory of the state could be seen from a single high watchtower. Foreign relations were limited to an occasional fight with an unfriendly neighbor or a visit from a traveling potentate. Is it any wonder, then, that it was easy to speak dogmatically about political affairs and to indulge in political theory? Today the scene has changed. An earthquake in San Francisco sends some Massachusetts people to the poorhouse. Some scientist discovering a new chemical method in a German college town upsets the business prosperity of Bolivia and Siam in the span of a few months. A sudden war in Europe causes the mountaineers

of Chile to starve to death. And so on, the world over. Science and diplomacy, the retail trade and society interlock so freely and at such high velocity that no man, however experienced and able, can define the connections of many events, still less anticipate them. In the days of Aristotle, politics seemed on the verge of becoming an exact science. Today it is not even an art, but for the most part a series of bad guesses, the worst examples of which were the acts and assertions of world-famous scientists and statesmen in the early months of the Great War.

The simplest and most easily visible aspect of the new interdependence of all peoples and nations is to be found in the extraordinary speed with which American products, manners, and pleasures are being adopted all over the world. No home-dwelling Yankee can realize how fast or how thoroughly this infiltration is proceeding. It is, I say without hesitation, the most significant political event of the century, for it is influencing every phase of international trade, international finance, international politics, and international communications.

Richard Washburn Child recently related the rueful confession of a famous European propagandist who for many years had been trying to influence American opinion in favor of his own country. He said: "I tried to take our ideas, our spirit, and all the rest—all the invisible exports —into America. Pah! Only to find, when I returned to Europe, that America had been oozing all over us fashions, customs, manners, social ways, sports, games, hobbies, and the whole printed and pictured effluvia of your ideas."

Never was truer word spoken! And it has many comic manifestations of its truth, too. For instance, where are American business methods, American manufactured goods, and American slogans of strenuosity most fanatically worshiped? In Soviet Russia. From the highest official down to the peasants, one passionate effort is being made to imitate our factory efficiency, our high wages, our

short working-hours, and all the good things that go with these.

Everywhere the Americanization goes on, and almost wholly without the slightest effort on our part to persuade the foreigner. It occurs automatically by sheer force of the goods and habits which we offer. We force nothing on the world. The world seizes upon our things because the world likes them better than other things. The one exception to this general rule is in international finance. The United States has lent foreign governments and corporations the unimaginable sum of $24,000,000,000, every dollar of which has been borrowed, not because our debtors liked our money better than their own but solely because ours were the only coins to be had. And it cannot be denied that this has caused extensive ill feeling. Nobody likes to go into debt head over heels; still less does anybody like to see one lender growing excessively rich as a result of lending to all the poor. Here, then, we have the delicate and dangerous consequence of our new internationalism; and we must accept it as an unpleasant fact that this will continue to harass our statesmen for many a year. The new politics of peace must be studiously cultivated, if we are to avoid serious trouble over foreign loans.

The politics of peace which will arise out of the new interdependence of the world's peoples, its arts, and its sciences will be, like all other human institutions, an ingenious compromise between the habits of the past and the aspirations of today. It will be a compromise between old theories and new conditions. It will be a compromise between the apathy and the ignorance of the masses, on the one hand, and the genius and the foresight of leaders, on the other. Hence we can best discern its pattern and its trend by studying with care those contributing factors which are visible and clear, namely, the important political theories and practices which have assumed form in the

minds of great thinkers and under known conditions of time and place. Knowledge of these is the beginning of contemporary political wisdom. It is also the springboard of the prophet.

Prophecy is not our present concern. Though we shall make various conjectures about the future politics of peace, we shall not deceive either ourselves or our readers into thinking that these are anything more than amiable guesses.

PART I

CONSTITUTIONALISM TODAY

CHAPTER I

CONSTITUTIONALISM IN THE UNITED STATES

Fundamental to the comprehension of the politics of peace is an understanding of what is meant by constitutionalism. In modern politics, no form of organization is more important than a constitution, written or unwritten, and no concept is more significant than constitutionalism. Both terms are identified with the modern democratic, responsible state; one as the fundamental law, and the other as the spirit which underlies the law. Constitutionalism means liberties, rights, protection, freedom from arbitrary authority. It also means restraint, order, and law. Constitutions of government have different meanings to different interests and groups. We cannot look at constitutionalism merely from the view of a single nation. We must draw upon the accumulated political experience of the race to discover its meaning and its import. Constitutions, then, vary as to form, rigidity, and flexibility, but a single element runs through them all. States have rights and obligations. Citizens and subjects have rights and obligations. The privileges and the responsibilities of each must be defined and safeguarded. Constitutionalism means, in the first place, the reconciliation of liberty with authority, a rational compromise between the basic rights of the people and the essential rights of the state. Constitutionalism implies, in the second place, a set of principles which have an application superior to that of the ordinary law.

A constitution is difficult to define. Charles Borgeaud has declared it to be "the fundamental law according to which the government of a state is organized and the relations of individuals with society as a whole are regulated." Said the Supreme Court of Connecticut: "A constitution is that body of rules and maxims in accordance with which

the powers of sovereignty are habitually exercised; and its provisions are the rules of conduct for those branches of the government which exercise the sovereign power." And Professor Dicey, the British authority on constitutional law, declared that a constitution includes the fundamental rules which directly and indirectly affect the distribution and exercise of sovereign power. But it is useless to pile one definition upon another. A constitution is merely a form of political organization regulating the exercise of the authority of government.

There are several types of constitutions. The most general classification is that of written and unwritten. Much is made of this division. But only one great constitution is unwritten. Moreover, many of the written constitutions have been profoundly affected by custom. Constitutions are also said to be rigid and flexible, as regards the difficulty or the ease of amendment. Yet, a rigid constitution, like that of the United States, yields to easy amendment through extra-constitutional means. Also, the flexible British Constitution has provisions which are even more difficult to change than the American Constitution, so great is the force of custom.

Another division of constitutions is made on the basis of the interpretation and the enforcement of the fundamental law, that is, whether this function is committed to the judiciary or to the legislature. Most states locate this authority in the legislature; the United States and Czechoslovakia are among the few states which have expressly adopted the so-called principle of "judicial supremacy." Such attempts at classification as this have proved to be very unsatisfactory. The constitutionalism of each state is disclosed only by an examination of the principles which underlie its fundamental law. In this chapter the important features of constitutionalism in the United States will be discussed, leaving to subsequent chapters similar details relating to Great Britain and France.

Constitutionalism is merely another word for constitutional government. President Wilson, in his lectures before Columbia University, later published as *Constitutional Government in the United States,* set forth the following objects of constitutional government: (1) "To bring the planning will of each part of the government into definite contact with popular thought and need; (2) to give the law thus founded on consent and adjusted to the public interest stability and an incorruptible efficacy; and (3) to give every citizen alike the right to use the legal machinery in his behalf in the defense of his rights." The essential institutions to give effect to these objects he described to be: first, guaranties of individual liberty, such as Magna Carta, or the first ten amendments to the American Constitution, commonly called the Bill of Rights; second, an assembly, representative of the people and not of the government, designed to criticize, check, and control it; third, an executive, administration, or government subject to the laws; and, fourth, a judiciary, substantially independent and supreme, which can restrain even the government when guilty of *ultra vires* acts or arbitrary authority. These principles were presumed to refer to the American Constitution in particular. They represent in a general way the objects and institutions of constitutionalism the world over.

Lord Bryce said that the American Constitution was "the most wonderful work ever struck off at a given moment by the hand and purpose of man." Such fulsome praise flatters us, but it is often forgotten that Bryce in the same breath gave the British Constitution the primacy among constitutions which are the result of unconscious growth.

The term constitutionalism is especially important in America. Laws must be constitutional—in keeping with a superior instrument. Governments, to be recognized, must be "constitutional," that is, based on orderly constitutional

succession. The people have gained the habit of squaring their political conduct by means of constitutions. What, then, are the essential constitutional principles of the United States?

A. *A written constitution.*—The written constitution, so important a part of state life today, found its first application in the constitutions of the American states, based mainly on their charters, granted by England. When the Revolution broke out, there was little precedent for the making and establishment of constitutions of government. Two of the states, Connecticut and Rhode Island, merely continued their charters in effect as constitutions. The legislatures of the states of New Jersey, South Carolina, and Virginia drafted and adopted their constitutions. In two of the states, New Hampshire and Massachusetts, the people passed finally on their constitutions. The people of Massachusetts rejected the first constitution, which had been drafted by the legislature, but approved the document framed by a constituent assembly. Constitution-making and adoption, then, in the states, was essentially a legislative business. In the case of the Articles of Confederation, the Continental Congress was faced with the problem of providing articles of union. The document was accordingly drafted by the Congress and referred to the state governments for ratification.

As the defects of the Articles became clear, and the burdens of government became oppressive, the movement for a "more perfect union" gained headway. Movements for revision came from a number of sources. The Annapolis Convention, called by the Virginia legislature to discuss problems of commerce and taxation, adjourned, with a resolution to the Congress asking that a convention be held to make the Articles meet the needs of the Union. The resolution was passed. Delegates to the Convention were chosen by the state legislatures, who acted under instructions both from the Congress and from their respective

state legislatures. The instrument was ratified by state conventions chosen by the people for this express purpose. It was provided that nine states approving would put the Constitution into effect. Throughout the entire business of framing and adoption, the Congress and the legislatures of the states were placed in the background.

The Preamble to the Constitution describes one of the objects of the instrument to be the formation of a "more perfect union." This they deemed they could do better through a written instrument. To organize a government, to define and distribute its powers between the states and the nation and between the different departments of government, meant a form of constitution which would accomplish these ends. A constitution based on practice alone would not accomplish them. A constitution based on the principle of a separation of powers and on a genuine arrangement of checks and balances must be written. The individual, with his rights and liberties, seeks protection through their definition and enforcement as a part of a written document. The instrument first creates powers of government, and then may expressly limit them. The American view of a written constitution is best expressed in the words of John Marshall, the Constitution's greatest expounder:

> The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the Constitution is written. . . . . Certainly all those who have framed written constitutions contemplated them as forming the fundamental and paramount law of the nation, and, consequently, the theory of every such government must be, that an act of the legislature, repugnant to the Constitution, is void. This theory is essentially attached to a written constitution, and is consequently to be considered by this court, as one of the fundamental principles of our society.

The adoption of written constitutions by the state governments of the United States was urged as a reason for the recognition of the new republic by France and other

European states. The states of Latin America followed the United States in the adoption of a written instrument, and for this reason in turn urged their own recognition. The recent political upheaval of the empires of continental Europe was followed by a wholesale period of constitution-making. Indeed, Great Britain, which still prefers to "muddle through," is the only important state with a constitution resting on precedent.

The question of amendment is important. Some early state constitutions contained no amending clause. But as there was no distinction between constitutional law and ordinary law at the time, amendments were readily possible. In time, the states required the ratification of amendments by the people. Most states demand that amendments be passed upon first by from two-thirds to three-fifths of the members of each house of the legislature, and ratified by the people at the polls. Some of the states have adopted the principle of popular amendment through constitutional initiative. This makes the people entirely independent of the legislature. The initiative also raises the question of the distinction between constitutional law and ordinary statute law. Both now seem to have the same final validity in the states where the initiative obtains.

The Articles of Confederation were to be amended by proposals from the Congress, followed by unanimous ratification by the states. Three attempts to make needed changes ended in failure. The method of amending the Constitution was a compromise, and is a mixture of the national and federal ideas. Amendments may be proposed either by two-thirds of both houses of Congress, or by a national convention called by Congress at the request of two-thirds of the state legislatures. They may be ratified either by three-fourths of the state legislatures, or by three-fourths of the states in conventions called for that purpose. All amendments so far adopted have been proposed by Congress and ratified by the state legislatures.

The people have not taken advantage of the special machinery provided by the instrument itself.

It has been settled by decisions of the Supreme Court that the Constitution may be amended in any particular save the guaranty to the states of their equal representation in the Senate. An attack has been made on the amending process. Some claim that provisions legislative rather than constitutional in character find their way into the document. The dominant power of the states is regarded as a bad influence. It is also claimed that a minority may prevent either submission or ratification, and that Congressmen and state legislators, interested in their political careers, will be forced to act in keeping with interests which threaten their legislative tenure; moreover, that where one of the legislative houses is concerned directly in the proposed change, it will delay submission as long as possible, as in the case of the Seventeenth Amendment. Suggestions are therefore made in the direction of changing the amendment section. But the claim that the people cannot amend the Constitution in keeping with their will is much overdone. One would normally expect abundant caution in changing fundamental law. A suggestion must, and should, become a national issue before it can hope for even favorable consideration. Congress is becoming more prolific in the matter of proposals. Very properly, of the many changes proposed, only an occasional one is approved by the two houses and proposed to the states for ratification.

Amendments to the American Constitution have been conservatively made. The first ten, following so soon after ratification, called the Bill of Rights, may be regarded as a part of the Constitution itself. The Eleventh and the Twelfth were passed to meet new needs with respect to the suability of states by a citizen and with respect to the election of the President. The Civil War amendments gave the negro his freedom and citizenship and forbade

suffrage discriminations on account of race or previous status. The amendments following the Civil War have related to progressive reforms which a growing democracy felt it necessary to adopt. They include the levy of an income tax, the direct election of senators, prohibition, and the enfranchisement of women. Thus the Constitution is not beyond the power of the people to change, and doubtless responds as the opinion of the country dictates.

The written or "rigid" constitution has certain advantages. The powers of the legislature are enumerated, defined, and limited. The people cannot, acting suddenly, change what should be of lasting and permanent application because of a temporary whim. Men learn to know what to depend upon, and to count on the enforcement of its provisions. It also protects the fundamental rights of citizens from invasion and abuse by the action of the state. It also has its limitations. Governments adopting a written constitution which is difficult to amend must make a severe break and take radical measures, should they change their courses. Each generation is not made the exclusive judge of what it should be governed by, but must accept what it receives. Changes it would propose doubtless cannot be realized in its day. As the years pass, the provisions gain a certain sanctity, not from merit alone, but because of tradition. It becomes increasingly difficult to consider a written constitution objectively. A rigid written constitution means interpretation, with all its advantages and disadvantages. The choice is between parliamentary and judicial control. The concept of rigidity, however, in the case of a written constitution, is largely neutralized by the influence of custom.

B. *Federalism.*—Federalism in the United States is chiefly the result of experience. The people during and following the Revolutionary War were determined to rule. They had little idea as to how the powers between the central and the state governments should be allocated. The

nature of the union created by the Articles was of small importance. The attempt to govern under a confederation was a failure. The states were sovereign in every particular. All power depended in a sense upon state pleasure and state action. It was a union of convenience alone, and worked well only under the common and general purpose of winning a war. The obvious defects of this instrument led in time to the movement for a more perfect union.

There is much literature on the national or federal character of the government, as discussed at the Constitutional Convention. What would be the best form to correct the defects of the prior instrument, and to deal with taxation, defense, foreign relations, and commerce, domestic and foreign? Only a strong government, with adequate and independent powers, would do this. On the other hand, only a constitution which recognized the place of the states in the federal system would receive the approval of the people. It is clear that the framers intended a constitution which would hold the states as units in the federal bond, and with sovereignty essentially located in the federal government. Yet the people who ratified regarded sovereignty as still located in the state governments, and the right of withdrawal still open to them. It proved that, instead of a revised and strengthened compact, they adopted a genuine constitution.

The comment of Madison, the "Father of the Constitution," on its national and federal character is pertinent. He considered it a mixed system. The method of ratification was federal and not national; the House is national, the Senate federal, the executive a compound of both; the Constitution in its operation is national and not federal because it deals with individuals and not states; in the extent of its powers it is federal and not national, for its powers are enumerated; and the amendment section is a compound.

The issue between the federal and the national prin-

ciples engaged the serious attention of the Convention. Out of it grew the Great Compromise. The Virginia Plan suggested two houses of the national legislature, with the members apportioned among the states according to wealth or population. The New Jersey Plan suggested a unicameral legislature, representing the states as units in the federal system, where all the states, disregardful of wealth, population, or extent of territory, might have an equal voice. It was finally agreed that the House should be national and the Senate federal. Luther Martin was committed to what he called a federal government; he adhered to the interests of the small states, and insisted that a confederation should be adopted. While the result was a genuine federal union, he declared that a national as opposed to a federal government had been established, "designed not to protect and preserve, but to abolish and annihilate the state governments." This was due, he said, to a combination of those who wanted to abolish state lines with those who would enthrone the large states at the expense of the small, against the delegates who were truly federal and republican. It was a rational compromise; and while the national government is exclusively sovereign within its defined sphere, the states are autonomous within the scene of their reserved powers. The two ideas prove not incompatible with a genuine federalism.

Is the national government steadily encroaching on the rights of the states? This is a question of degree. The Supreme Court has prevented the states from doing the things expressly prohibited by the Constitution, such as the passing of laws which would impair the obligation of contracts. Moreover, the Court has held that, while the government is one of enumerated, and therefore of limited, powers, yet it is supreme within its component parts. Therefore any law passed by a state which impedes the government in carrying out its necessary powers is unconstitutional. The Court said in a celebrated case: "Let the

end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional." Its supremacy within its defined sphere and its full power to take the necessary means to carry out its powers often lead to a government function which is deemed to be an infringement of the rights of the states.

There are cases in the twilight zone between federal and state jurisdictions which must be decided. But the Court has been as careful to restrain Congress from its invasions of state functions as it has been meticulous in protecting the national government. Professor Howard Lee McBain has taken the position that the doctrine of limited powers is only half truth and half fiction. For, he declares, there must be somewhere an organ of government with "power to determine the measure of the government's own competence." Such power of self-determination rests in most countries in the legislature, but in the United States with the courts, especially the Supreme Court. Should Congress decide that the establishment of a complete system of elementary and secondary schools was necessary to the maintenance of an army and navy, and the Supreme Court should uphold the law, "with one fell swoop," says Dr. McBain, "the power of the states to control education would disappear; for children could not be coincidentally educated in two sets of schools." The reasoning seems logical, and the statement rhetorical. One is reminded, however, of that admirable statement of Chesterton's, to the effect that logic only drives men mad!

An unlimited and irresponsible authority of constitutional competence has no more validity than the proposition that the king can do no wrong. The sovereign, in England at least, is surrounded with this constitutional theory. There are many things the sovereign will not dare do, even though immune from error. From this authority

to set its own limits of constitutional bounds, "what the national government elects to do it may legally do." This is like the pretensions of state authority growing out of the Austinian concept of sovereignty. Because the state is sovereign, or the ruler is supreme, it may do what it elects to do. We know today that there are many things the sovereign state, once regarded as omnipotent in the exercise of state power, cannot do; and we know that there are decided limitations to the doctrines of absolute sovereignty and exclusive jurisdiction. We know also that Congress and the Supreme Court cannot, under the guise of the unlimited authority to determine their constitutional spheres, elect to do what they will. Nor would such election be legal.

Marshall declared that "the framers of the Constitution contemplated that instrument as a rule for the government of courts, as well as of the legislature." The use of the authority of interpretation to do what the Constitution does not authorize, what it does not intend, or what it expressly forbids, would in short order bring about the vesting of such authority elsewhere, and also the remedying of the abuse of constitutional prerogative. It is error to assume that the government can do what it elects, and that what it elects to do is legal, merely because it elects to do and does. Such a view strikes at the very heart of our federal scheme. There are remedies even against abuses committed by the most trusted of organs of government.

There are, nevertheless, certain interferences with the convenience and the interests of the states which must be charged against the interest of the Union. Much of this seeming encroachment comes from an enlargement of the business of government. As government becomes more complicated and the services of the state increase, the ordinary powers of government become more active, and grow out of proportion to their former consequence. It is merely

an adjustment of the authority of the state to new conditions. The commerce clause of the Constitution will change in meaning to meet the needs of a growing society. What was commerce a century ago and today, and what was regulation then and now are very different matters. We cannot ascribe a policy of invasion of state authority to the national government merely because time passes. The courts must prevent the states, even though they seem to exercise their legitimate function, from in any way impeding the passing of commerce between the states. The police power of the government undertakes to protect the public health, safety, and morals. The states can, in the exercise of their legitimate reserved powers, employ this far-reaching police power. But Congress may, in the form of regulating commerce, exercise certain police powers also. These laws have been upheld as constitutional in several cases. Such measures cannot be said to be substantial interferences with the rights of the states.

After all, federalism in the United States is a practical rather than a legal problem. Problems of jurisdiction inevitably arise, and, under our system, must be resolved by the courts. The essential features of our problem are brought to the front when we compare our own system with that of France, which is perhaps the most centralized government in the world. The Frenchman thinks nothing of being governed directly from Paris. Indeed, he would think it strange of his government if his department or commune had any consequential autonomy. Such is the philosophy which underlies the unitary state. The United States is a country of continental expanse, a country of regions, with all conditions of soil, climate, and geography. The needs of the regions differ. There must be some means of reflecting their demands and serving their interests. A federal system means uniformity in essentials but a healthy difference in those things which may properly be left to the regulation of local authorities. The business,

private, and legal relations of the people are left to the states. The system leaves room for variations in the law according to interest and need. The states have, through their political development, adopted interesting and useful devices and practices of government completely unknown to the national government. Our federal system prevents the regimentation of education for purposes of a single party or interest. By means of allegiance both to state and to nation, even though one be superior to the other, there is a sufficient diffusion of loyalty to prevent the deification of the national state for its own sake.

One of the greatest antidotes to an exaggerated nationalism is a genuine federalism. The division of function and authority between the states and the nation prevents the establishment at Washington of a great paternalism and bureaucracy. Territorial decentralization is efficiency in administration, for, with the tremendous growth of the federal government business, the task of national government would be hopeless were it compelled to bear the burden of the increased business of the states. Federalism and state units make possible the development of political leaders. Some of our best Presidents have been governors of states. They also give an opportunity to the people to come into closer contact with their government. It is good for man to be near a capitol dome, whether it be the capitol of his nation or that of his state.

C. *Presidential system of gòvernment.*—The government of the United States, in contrast with European governments, has come to be known as "presidential." Whether the practice is sound or not, there are definite reasons for its development. Under the Articles of Confederation, there was no leadership except that of the Congress. The executive or administrative functions were either neglected or badly cared for. The state governments, in their initial stages, sought to free themselves from the extreme executive authority of the colonial gov-

ernors. Accordingly, a number of executive offices, formerly filled by gubernatorial appointment, were made elective by the people, and the power of the legislature was increased while that of the executive was correspondingly diminished.

The Constitutional Convention had full opportunity to experiment with respect to the nature and the power of the executive. What was needed was an effective government. Every conceivable form of executive was discussed. The choice made was a compromise, having in mind the needs of the Union, and what the states would be willing to ratify. The work of the Convention, plus political experience, has resulted in one of the most powerful and most distinctive executives in the world. It was understood that an executive, to be effective, must be *energetic*. How could this be supplied? By an amplitude of powers which would make possible a reasonable and efficient functioning of the machinery of government.

The President's powers in matters of appointment, in the execution of the laws, in foreign relations, as commander-in-chief of the army and navy, in matters of veto, and in many other details are abundant proof that the presidency gives ample opportunity for energy in the hands of anyone who would take advantage of it. Moreover it was understood that the executive must have *unity*. There must be no opportunity for divided counsels. The nature of executive business was action and decision; that of legislative business was discussion and debate. The two were incompatible. An executive council would mean the introduction of legislative methods into the executive department and would make impossible ready decision and immediate action.

Then, too, an effective executive must have a *definite tenure of office*. It could not rely on the whims of legislative approval or disapproval. It must keep the wheels of government going during the legislative recesses. Fre-

quent and unreasonable changes in the presidency would mean the initiation and the abandonment of policies of administration merely because a new administration, to justify itself, must do something different. Time must be allowed to give the executive an opportunity to put his policies into effect. Duration in office was secured through the provision of a four-year term, with nothing said about re-election.

It was understood that the effective executive should be *independent*. It was suggested that he should be aided by a council or board of advisers. Some plans would have required him to take advice, others merely to listen to advice. It was decided that he should be left entirely free in the matter of seeking counsel for executive action. Hamilton argued with invincible logic that such a council would discourage decision and action through the inevitable process of extended consultation. Moreover it would weaken responsibility by serving as a cloak to the bad intentions of an executive. Should things go wrong, the council could take or be made to take the blame. The President was therefore left free in this field of advice, with the right to require written reports from the heads of the executive departments. Also, the executive has his powers set forth in a separate article in the Constitution, on the theory that his function, while often co-operative, is nevertheless separate and distinct.

It was also understood that the executive, to be effective, must be *responsible*. Safety in the republican sense, the *Federalist* argued, consisted of a due dependence on the people and a due responsibility which could be supplied by a numerous legislature. The framers of the Constitution made the President legally responsible to the Senate and the House through the process of impeachment. The election of the President was put beyond the range of Congress. But the people have decreed a larger responsibility, that is, through the election of the President by themselves.

The President has the unqualified advantage of a mandate from the people of the United States; he also faces the danger of repudiation at the polls. To establish further his responsibility, the President is the leader of his political party. Unless he leads, and unless he is acceptable or can make himself indispensable to his party's future, his way ahead is hard, and he will, as the years pass, be retired to the political wilderness. Thus, through the vision of the "founding fathers," and the needs of the people, we have established an executive which may be said to partake of the elements of energy, unity, duration, independence, and responsibility. Taken together, they make perhaps the most effective and the most peculiar executive in the world. His office is the antithesis of weakness, indecision, delay, and division of counsels. For, as the *Federalist* so well said: "A feeble executive implies a feeble execution of the government. A feeble execution is but another phrase for bad execution; and a government ill executed, whatever it may be in theory, must be in practice a bad government."

This type of executive has become known as the presidential system of government. Its features are, to quote from an earlier work of mine: "an executive head elected by the people for a term of years, removable by impeachment, but politically irresponsible to the legislature; a cabinet appointed and dismissible by the President, and responsible to him; and a legislature elected by the people for a term of years and not dissoluble by the president."[1] As against it there is proposed the parliamentary system with its much heralded union of powers.

Much sport is enjoyed by a certain type of American critic who describes American elections as brought about by the "calendar" and the "clock," whereas the elections under parliamentary governments are precipitated by the

[1] Martin, *Introduction to the Study of the American Constitution*, p. 224.

"issue." It is an easy habit to acquire—that of singing the virtues of the parliamentary system; and many continue it, in spite of what has happened and is still happening in Europe today. But the accumulated issues of four years are of far greater import than the isolated and fortuitous issues which determine the life and death of ministries. The American election may turn on political principle; the parliamentary elections generally turn on mere expedients, which have their origin unmistakably in legislative squabbles. Responsiveness and responsibility may be obtained under the parliamentary system. But they are not lacking under the presidential system. Moreover, with the House of Representatives renewed every two years, the Senate renewed by one-third every two years, and the President every four, the fact of responsibility is duly cared for. The form of responsibility must be determined by a people's major needs. The fact remains that we have as effective responsibility as any country in the world.

But what of responsiveness? Does not the presidential system result in delay, inaction, and obstruction? Do not the parliamentary governments furnish models of the immediate articulation between the executive and the legislative departments? It seems so. Many of the policies, put in motion by so sudden an articulation between these forces, are often discontinued as suddenly. When legislation does run the legislative, the executive, and finally the judicial gauntlet in the United States, it has been carefully reviewed from every angle, and has the greater prospect of permanency. This division of function goes to the more effective consideration of legislation, not to its obstruction or delay. Then the charge of delay and deadlocks between the executive and the legislative branches is answered by the political party. There is generally full political understanding and co-operation between our different branches; for, while divided in function, they are united in party allegiance. It is a sort of unity in diversity which makes for

caution, consideration, and co-operation. Then, a party organization is balanced, in a sense, against itself.

In England, the only government is that of the caucus of the majority party. While the caucus is important in the United States, it is not the whole government. Then, counsel from the President and the members of the Cabinet may be given, not only in a political capacity, but also in an administrative capacity. The fact that the President is both actual and ceremonial head of the government, as well as the leader of his party, opens the opportunity to act as both in his legislative relations, without being inconsistent. The party, while effective, is more in the background than in other countries. The comparatively few deadlocks have not been harmful. A period of legislative inaction gives the people poise, and lets them have time during which to decide what shall be done at the next "calendar" or "clock" election. It is likely that as much will be decided at such an election as at one called for the reason that an opposition leader has been able, by constant manoeuvering, to outwit the premier. The President of the United States fortunately has time for other things than to out-talk, out-general, and out-distance his opponent. His occupation is after all one of dignified leadership and executive business—not that of an endurance contest with a rival politician for the confidence of a legislative chamber.

Howard Lee McBain has declared that "the prime function of the President is not executive at all. It is legislative." The constitutional placing of the President in our political scheme of things is described as a "gentle fraud upon ourselves." The President, however, has merely developed to the full the avenues of contact with the legislature until they have become not contact routes but avenues of control. It is hardly accurate to describe it as legislative leadership. It is executive leadership of the legislature. To be truly legislative leadership, the presidency

must be legislative in character. The power of the President has grown, not only from the influence of parties and his party leadership but also from the importance of executive business. Moreover, the President's party leadership and influence does not make the office legislative. His party leadership is still executive. It is, indeed, the executive qualities of the office, already described, which make it so powerful, and which give the occupant so much control.

Sherman suggested at the Constitutional Convention that the executive magistracy was "nothing more than an institution for carrying the will of the legislature into effect, that the person or persons ought to be appointed by and accountable to the legislature only, which was the repository of the supreme will of the society." Such a plan was definitely rejected. The cardinal feature of the parliamentary system—that of executive membership in the legislature—is forbidden under the Constitution, for no officer of the government can be a member of either house of the legislature during his continuance in office. The President's activities, with the exception of the veto power, are chiefly executive. He has his control of the legislature because of his independence of it rather than because his own functions have become legislative. Indeed, when the chosen leaders of a parliamentary majority become more powerful than the parliament itself, as has been the case, especially under the régime of Lloyd George, the result is, not legislative leadership, but executive control of the legislature.

McBain brings to the student of present-day political institutions a fresh appraisal of the American system. In striking contrast to many writers on politics, he appreciates the value of American institutions. Political scientists have too long accepted as a truism the efficacy of parliamentary systems, and have criticized the American government in the light of foreign standards. The ministerial crises, the parties, usually unstable and irresponsible,

ministries having authority without responsibility, parliamentary turnovers resembling the changes on the stock-market—these things and more do not inspire confidence in the system which obtains across the sea. What has happened to parliamentary government in certain European countries and its ineffective functioning in others is proof that it has some defects which even the presidential form might rectify. McBain has declared with conviction: "Only the innocent, the wicked, or the stupid would be willing to exchange presidential government for a galloping procession of impotent coalition cabinets after the pattern of the unstable European bloc system."

D. *The separation of powers; checks and balances.*—One of the safest guides through life, in its every department, is a sense of balance. To some, such a course means stagnation, for there can be no progress to them except through eruption, upheaval, avulsion, and revolution. But the daring, the bold, and the dramatic do not carry a practical world on to its goal. The pathway of progress, peace, and prosperity lies not among the rapids but where the waters are silent and deep.

The separation of powers means the restriction of each department of government to its own sphere. The *Federalist* assumes "that the powers properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments." The first task of governmental planners is to discriminate in theory the several classes of power and the categories to which they belong, and then to arrange for "some practical security for each against the invasion of the others." The mere marking of boundaries with precision will only amount to "parchment barriers" unless safeguards are erected against the "encroaching spirit of power." The executive in a hereditary monarchy, and also in a democracy, is the institution to be watched, for its pretensions to power are the most dangerous in these situations. But in a

representative republic, where the executive is expressly restrained by the Constitution, the danger of overstepping the bounds comes from the legislative department, which is "everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex." Therefore, the *Federalist* argues for a co-ordination of departments, and a separation of function and authority, in the interests of restraint, balance, and efficiency.

To define what is legislative and what is executive is not easy, but the landmarks of each should be clearly indicated. The Massachusetts constitutional convention declared that no department should exercise the powers of another, "to the end that it may be a government of laws and not of men." While such a theory seems to neglect the human factor, it establishes the principle that the government is subject to and not above the law. While the principle does not work in its original form as was intended, it is far from being the fiction it is in some quarters represented to be.

A corollary to the separation-of-powers principle is that of checks and balances. Given the barriers, something must be done to make them consequential. Checks and balances should be erected to establish an equilibrium. Each department, to do its best work, must have a will of its own, and a field of its own. This independence, declared the *Federalist,* can be secured by the independence of each department, in so far as possible, both in the matters of appointment and of support. But some departments will seek to gather all powers to themselves. This can best be prevented by "giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others." The provision for the defense must be commensurate to the danger of attack. The *Federalist,* indeed, did not ignore human nature in its recommendations, but suggested safeguards because government is so human! It said:

Ambition must be made to counteract abilities. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature that such devices should be necessary to control the abuses of government. But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the greatest difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on government; but experience has taught mankind the necessity of auxiliary precautions.

The checks afforded by the American Constitution are many and strong. The courts furnish perhaps the greatest check of all, virtually independent as they are, and acting as a referee between the conflicting claims of the states and the nation, the government and the individual, and the departments of government. The bicameral legislative system also serves as a check of one legislative house against the other. Each house, while co-operating in the business of legislation, also seeks to maintain its own integrity. While the House may originate appropriation bills, the Senate may concur with amendments. The President and Congress, while having their separate functions and integrities, must work together. The President informs the legislature of the state of the union through his messages. He may prevent legislation by withholding his signature to bills. The legislative and administrative programs will fail unless there is co-operation. Only Congress can pass bills. Sometimes the co-operation takes the form of bargaining, but, more generally than it is so represented, it is genuine co-operation in the public interest. The President, while making treaties and appointments, must have them ratified and confirmed, respectively, by the Senate.

E. *The control of the courts.*—The United States has made its unique contributions to constitutional govern-

ment. The most daring, the most original, and the one which is the least followed abroad, is the power to disallow statutes. In Czechoslovakia, this right rests on the solid foundations of constitutional provision.[1] In the United States it rests upon a single decision of the Supreme Court, in which the great Chief Justice Marshall, after refusing to take jurisdiction, when he might have closed the case, continued his opinion, asserting the duty of the Court to invalidate a law conferring on the Court a jurisdiction incompatible with that defined by the Constitution. From this one opinion has developed a power of the courts unlike that of any judiciary in the world.

The federal judges, to secure their independence, were to be appointed by the President, with the advice and consent of the Senate, and to serve during good behavior. This independence has been respected in spite of occasional interference on the part of the other branches of the government. But with a government of enumerated and limited powers, with rights flowing to the states and the nation, the government and the individual, and the different departments of government, set forth in a written instrument, some agency was necessary to interpret and apply it. The question of judicial review did not receive much attention at the Constitutional Convention. But Charles A. Beard has indicated that of the fifty-five delegates to the Convention twenty-five expressed approval of the idea in some way, while only four are recorded as having opposed it. Hamilton, writing in the *Federalist,* argued that the courts should interpret the laws. The Constitution was the fundamental law to be regarded by the judges. It was their province to ascertain its meaning together with that of legislative enactments, and, in case of differences

[1] The principle of judicial review and the Constitutional Court are established, not by the Constitutional Charter of the Czechoslovak republic, but by Articles 1–3 of the Law of February 29, 1920, which introduced the Constitutional Charter.

which cannot be resolved, to give application to the Constitution.

The gist of Marshall's argument can be gleaned from the famous case of *Marbury* v. *Madison*. The people, said Marshall, may determine their principles of government. This may include limits upon the powers of government, as well as their organization and distribution. Our government is one of limited powers. The Constitution is written in order that the limitation may be made effective. An act of the legislature cannot be on the same level with the Constitution, or the writing of the latter instrument is nothing but a waste of time. The courts must say what the law is, and where it conflicts with the Constitution the courts must decide between them. The Constitution is a rule for the government of courts as well as of the other departments of government. The judges are compelled, under their oath, to be governed by it. His argument is summed up in the following words:

> Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the Constitution is void; and that Courts, as well as other departments, are bound by that instrument.

The principle of judicial control has been the object of much attack, as well as of much ardent support. But it continues to be regarded by the courts as the "very essence of judicial duty." The attitude of the courts toward social legislation has been attacked. Where Congress has tried to do the human thing, through the exercise of a power denied to it by the Constitution, there has remained nothing for the courts to do but disallow the act. The courts are not against such legislation *per se,* and indeed have no right to be. Interference for its own sake would not be tolerated for a moment. Congress, because of its authority to determine the personnel and salaries of the Court and to define its appellate jurisdiction, sometimes asserts a

supremacy, but on false grounds. It is the business of the legislature to provide rather than to destroy.

Roosevelt championed the doctrine of the recall of judicial decisions, and some of the states have adopted the principle of the recall of judges. Both these practices have become more or less obsolete, and represent an episode in the perpetual attack by certain people on the courts which happened to bear more than the usual fruit. "Five-to-four" decisions have been attacked as defeating, by a single judicial vote, the considered judgment of Congress. There have been only nine instances of this as regards the laws of Congress in our history. Unfortunately, these cases have concerned important social, economic, and political issues. But the requirement, for example, of seven rather than five votes would avail nothing. The fact is, the objecting groups are dissatisfied, not with the method but with the result. Suppose the Supreme Court should declare the minimum wage law constitutional by a vote of five to four? Would the objection be so articulate? There are some who would sweep away the right of review by the courts. The acts of Congress which have been voided have conferred upon the Supreme Court an unauthorized jurisdiction, encroached on the internal affairs of the states, infringed upon the fundamental rights of individual citizens, or attempted to do things forbidden to Congress by the Constitution. That Court passes only on legislation which comes before it in due course of litigation. The duty of the Court is plain and inescapable. In the words of Chief Justice Taft:

> We cannot avoid the duty, even though it requires us to refuse to give effect to legislation designed to promote the highest good. The good sought in unconstitutional legislation is an insidious feature, because it leads citizens and legislators of good purpose to promote it, without thought of the serious breach it will make in the arch of our covenant, or the harm which will come from breaking down recognized standards.

F. *Popular sovereignty.*—According to Lord Bryce, popular sovereignty is one of the two leading principles of the American commonwealth. There is little dispute as to the existence of the principle, but much as to what it means. The first political ideas on this continent were ideas of self-government. Religious and political liberty were issues from the very beginning of our history. The Revolution was a movement based on the theory that the people should rule, that men are equal, that government rests on the consent of the governed, and that all legislation must have the consent of those who must obey the laws. The framers of the Constitution, on the contrary, were skeptical of rule by the masses and by majorities, and therefore sought to surround the government with safeguards. Hamilton was the leading opponent of popular sovereignty. His plan for a government would have reduced it to the minimum, that is, the lower house of the legislature.

In spite of these removals of the government from the direct influence of the people, the President and members of the Senate are elected by the people, and great political parties appeal for support of the masses. Jefferson was the great advocate of the principle of popular sovereignty. Government by consent was the breath of his political life. Popular sovereignty, its application and results, is really the political history of the United States. Little attention is now being given to its precise location. The Constitution asserts in its preamble, "We, the people of the United States . . . ." Criticize as we will the functioning of legislatures, the faults of our representative system, and the failures of democracy, the sovereignty of the people remains uppermost in the mind of the American citizen in his relation to his government. Where the idea is so tenacious, there must be some relation between practice and fact.

Popular sovereignty can express itself only through majority rule. This is a necessary corollary of the former

principle, and is a means to an end. The framers of the Constitution sought to check the inordinate action of majorities. They are not always right; the voice of the people is not always the voice of God. But we have yet to find a better method to give effect to the principle of popular sovereignty.

G. *The bill of rights.*—The Constitution of the United States contains a Bill of Rights. It is sometimes regarded as the first ten amendments, but its provisions are not so limited. Jefferson was of the opinion that the Constitution should not be ratified until it guaranteed the people against the abuses which in part led to the Revolution. To him the government was much less important than the rights it should preserve. Hamilton opposed the Bill of Rights, on the theory that the federal government had no authority to do any of the things it was feared it might do. But Madison, while friendly to the Constitution, insisted that the power of Congress, while limited to the express provisions of the Constitution, should also be expressly limited to the extent of forbidding interferences with fundamental rights.

The usual rights are guaranteed, such as the freedom of religion and of worship; freedom of speech and of the press; the right of assembly and of petition; the right to bear arms and immunity from the quartering of soldiers; immunity from unreasonable searches and seizures; and indictment by a grand jury. No one can be put twice in jeopardy for the same offense, nor may one be compelled to be a witness against himself in criminal cases. By the Fifth and the Fourteenth Amendments, no one can be deprived of life, liberty, or property without due process of law. The government may exercise the right of eminent domain, but private property cannot be taken for a public use without just compensation. The accused of crime must be informed of the nature and cause of the accusation, may demand the confrontation of witnesses, may compel wit-

nesses to testify in his behalf, shall have the assistance of counsel, and shall have the right of a jury trial. This right is preserved in civil cases where the litigation concerns rights valued above twenty dollars. Excessive bail, excessive fines, and cruel and unusual punishments are prohibited. The writ of habeas corpus can be suspended only when in cases of rebellion or invasion the public safety may require it. Bills of attainder and ex post facto laws cannot be passed. Treason is defined and the procedure for its trial is briefly outlined. The obligation of contracts is fully protected against the states.

The limitations of the first ten amendments are on Congress—not on the state legislatures. Most of the state constitutions also have their bills of rights. We must be satisfied with this enumeration. I have discussed the general subject more fully elsewhere.[1]

H. *The conventions of the American Constitution.*—The Constitution of the United States is not always what it seems. Indeed, usage has had a large part in its development. It does not stand out as a contrast to the British Constitution, as unaffected by usage, just as the British Constitution cannot be said to be based on usage alone. Here again I can only enumerate rather than elaborate the customs of the Constitution. The President, instead of being actually chosen by the college of electors, is in fact chosen by the people, even though they cast their votes for a ticket of electors, who shall and actually do in turn cast their votes for their instructed candidate. This practice has in effect established a national election day, and has set aside both the letter and the intent of the Constitution. While a President is not by the Constitution limited to a second term, yet by practice many have been excluded from the privilege of even representing the party in a third campaign. The Cabinet was not intended to be an executive

[1] Martin, *Introduction to the Study of the American Constitution,* pp. 243–68.

advisory body, but it has become such. The Vice-President, while only succeeding to the duties of the presidential office under certain contingencies, and while not constitutionally given the higher title, yet by practice assumes that title. Representatives must by practice be residents of their districts, but nothing is said about it in the Constitution. Appropriation bills, originating constitutionally in the House of Representatives, may be changed at will by the Senate's power to concur with amendments. The independence of the executive in the use of the qualified veto is challenged by the practice of attaching riders to appropriation bills. The Senate and the House insist on sharing the President's right to nominate to the Senate, through the claims of patronage. The Senate has also claimed at times the right to share in dismissals. The sessions of Congress are public, although the Constitution does not so stipulate. The courts have their integrity, even though the way to their control is open to Congress. Offices are distributed on a geographical basis, for which custom is the only sanction. The Speaker of the House is a partisan official rather than the impartial presiding officer intended under the Constitution. The President has become the leader of his party, and parties have developed as the motive power of government. The President has become the leader in legislation, whereas under the Constitution his measures were to be merely recommendatory. Finally, the power of judicial review, while resting on a great court decision, since Marshall's first decision, receives its greatest sanction from practice.

And now let us look at one of the inadequacies of American constitutionalism in the modern world order. When the Constitution was drafted, there were few economic and social classes in the United States strong enough to make themselves felt in the shifting of the new government. The pioneer farmers and the business men

of the cities alone were potent enough to shape and direct the political structure of the day. During the years which have since elapsed, our population has become so large and so diversified that it embraces today scores of immense classes, each of which struggles to perpetuate its own existence or else to improve its own lot. It is not to be marveled at in the least that our constitutionalism creaks noisily under the strain of these conflicting forces. And no political contrast is sharper than the one which can be drawn between our political system and that of Russia, which is growing out of a series of class struggles considerably more complex than those which led to our system.

The essential functions of the Soviet State do not appear within our own constitutional system. But they exist and are exceedingly powerful outside of the American government. You find them in the enormous and highly organized lobbies which toil unceasingly at Washington and at every state capital. These lobbies are unavoidable. We may pass all sorts of laws against them, but it will be in vain. For they express the special interests of large groups of citizens. The farmers' organizations, the manufacturers' associations, the chambers of commerce, the labor unions, and almost every other large economic class are each well represented by a lobby. Were they all denied the privilege of maintaining offices in Washington and of addressing legislators and checking up minutely on every act of the President and Congress, our entire system of governing would deteriorate. For there can be no way of finding out what the real interests of the people are unless every special interest is permitted to express itself freely and to champion whatever causes seem right to it.

The most grotesquely inconsistent tirades have been hurled at the "Farm Bloc" and at the labor unions by merchants and manufacturers and bankers. The farmers have been scathingly denounced for striving to "force the government to do as they say" by lobbies. So have our work-

ingmen been attacked. But their attackers themselves have, for many years, maintained even more powerful lobbies to secure special benefits of all sorts, such as high tariffs, concessions, subsidies, and what not. And it is only fair that farmers and workingmen exercise this same privilege. It is pure nonsense to talk of suppressing lobbies. They are as inevitable in the modern world as postmen.

In the present world order our government encounters grave obstacles in being truly representative of the people in the original sense of this phrase, and chiefly because the control of the essential power in finance, business, science, and engineering rests in the hands of a few thousand experts and organizers. Probably this has always been the case, but never so conspicuously as now and never before on such a colossal scale. Little wonder that students of American politics insist that ours is no longer a democracy even in name. The fundamental policy of the country is determined by the experts and organizers regardless of the political party in power. What the country does in any major practical issue is to be determined chiefly by the facts of the situation, and these facts remain the same, whether Republicans, Democrats, Socialists, or Communists happen to fill the seats of our legislatures.

Less and less does partisan policy count. More and more does the task of governing become an engineering problem whose solution is found by more or less objective calculations. So, though we may grant that the people still retain full power to choose their representatives, they have long since ceased determining what action these representatives could or should take in the larger questions of fiscal policy and of diplomacy and social welfare. Whether or not there should be some return to the old-fashioned popular sovereignty is beside the point just now. We are concerned here merely in pointing out the impotence of the "rule of the people."

CHAPTER II

THE ENGLISH CONSTITUTION

In the new politics of peace, there is no other fact so important as the relations between the British Empire and the United States. In saying this, we are influenced by neither love nor hate for either nation but simply by the realities of the situation. Consider a few indisputable matters.

There are only three nations of the first magnitude in the world—the British Empire, the United States, and Russia. All the others are, for one reason or another, far below these in natural resources, in man power, in geographical advantages, or in some other vital respect. In the long sweep of history it must be the British, the American, and the Russian peoples who will most profoundly affect the weal and woe of the next five hundred years.

Now, of these three, the British and the American happen to speak the same language, possess essentially the same social and political habits, and dominate the two chief oceans of the world, whereas Russia is in the main an inland empire, tragically divided from the rest of the nations by ice, mountains, deserts, and language, and still living in the Middle Ages. Furthermore, the British and the American fortunes are indissolubly linked by several geographical peculiarities, the most significant of which is the contiguity of Canada to the United States.

The boundary line between Canada and our own land is a purely political one. It has no other meaning. Over it, night and day, flow streams of people, money, and ideas. In the United States there are now living about 2,600,000 native-born Canadians. Canadian investors have salted down, in American stocks and bonds, almost an even billion dollars. And Canadian banks daily lend millions of dollars to American business firms. Conversely, hundreds

of thousands of Americans, especially the successful Middle Western farmers, have moved into Canada, with the result that Western Canada cannot be distinguished from our own Western plains except by a highly trained observer. Every summer an army of American tourists pours into Canada for motor trips, camping, and fishing; and they spend millions of dollars for their fun. In 1927 these pleasure-seekers left no less than $200,000,000 in Canada! American investors have poured hundreds of millions into Canada's power plants, dams, pulp mills, and marvelously rich mines. And American publishers pour into our northern neighbor's domain virtually all of the reading-matter which Canadians choose, except their daily papers. To complete the picture of our peaceful penetration, bear in mind that most Canadians fall under the siren spell of American movies and American radio broadcasting. The latter especially is binding the two peoples more closely than treaties or alliances ever could. For it is subtly moulding the minds of millions alike, north and south of the boundary.

Now, as these two huge lands tend to become interdependent and all but fused into a single social unit, must we not give serious attention to understanding the political methods and theories of the British Empire, whose point of view and whose policies underlie those of Canada? It is hardly an exaggeration to assert that every American citizen owes it to himself, as well as to his own country, to know the British Constitution and the British political practice almost as thoroughly as he knows the American. And not because we look forward to an Anglo-American union or to the annexation of Canada by the United States. There is no more need of such things happening than there is a need of Texas annexing Rhode Island. But there is a tremendous need of intelligent co-operation between the two English-speaking empires; and this cannot be attained unless the citizens of both are familiar with British and

American points of view. For this reason we shall give unusual attention here to the details of the British political theories and practices.

The average British subject does not hesitate to admit the superior political capacity of his own people. When asked for evidence, he points with pride to the creature of their political handiwork—the British Constitution. It is something he cannot explain. It defies definition, order, classification, or explanation. It is the logical result of the long-standing British habit of "muddling through" their political situations. It is all the greater for its lack of precision and its defiance of the usual constitutional arrangements. People who do not have a share in the inspired work of making it are minded to judge of its results. Nevertheless it remains the most significant political system in the world. The experience of Great Britain has in a sense been the school of government, statesmanship, and diplomacy for all the world. Her practices and principles have been freely adopted by other states. The British Constitution was the foundation of our own system. The British and American systems have had widely different developments, but rest on the same foundation—the common law.[1]

Dicey has divided the British Constitution into two parts: (1) the law of the Constitution—the rules enforced

[1] Writers on the American Constitution who regard it as a political instrument alone fall easily into the error of denying, ignoring, or belittling its common-law foundations. The observation of Chief Justice Marshall on this point is noteworthy: "The language of the Constitution cannot be interpreted safely except by reference to the common law and to British institutions as they were when the instrument was formed and adopted. The statesmen and lawyers of the Convention, who submitted it to the ratification of the conventions of the thirteen states, were born and brought up in the atmosphere of the common law, and thought and spoke in its vocabulary. They were familiar with other forms of government, recent and ancient, and indicated in their discussions earnest study and consideration of many of them, but when they came to put their conclusions into the form of fundamental law, in a compact draft, they expressed them in terms of the common law, confident that they could be shortly and easily understood."

by the courts, which include the rules enacted by statute, and the rules derived from custom, tradition, or the judge-made maxims known as the common law; and (2) the customs or conventions of the Constitution. The second part includes the practices, precepts, and customs which are not enforced by the courts, but which have come as the result of practice, such as the resignation of ministers when they no longer command majority support, or the assent of the king to bills passed by the parliament.

What are the leading principles of the British Constitution? They are difficult to discover. It is an instrument changing constantly, imperceptibly, through the law of political accretion, and by means of ordinary legislation, by executive action, by decisions of the courts, and by precedents which soon ripen into conventions. Its varied sources complicate the matter of its explanation; yet we are warranted in making some general observations.

A. *Its unwritten, flexible, and continuous character.*— The British Constitution is said to be unwritten. This is only partly true. Many of its greatest principles rest on statutory enactments, and much of its content has found its way into written form. The Imperial Conference, held at London in the fall of 1926, reduced to written form the practices which prevail in the relations of the Dominions to each other and to the mother country. It has become a document of first importance. It is not unlikely that the future development of the British Constitution will be along the lines of codifying the principles and practices which now prevail.

The genius of the British Constitution rests on custom. It will never be a single document like the American Constitution, unless the British should make a distinct and open break with the past. And should they do so, they will probably arrange to do so "constitutionally." The more important constitutional relations seem to have been reduced to written form. The Habeas Corpus Act of 1679 is

a written guaranty of personal liberty. The history of English liberty has been the progressive limitation of royal prerogative. This has been done through such great documents as Magna Carta (1215), the Petition of Right (1628), the Bill of Rights (1689), and the Act of Settlement (1700). Relations of England with Scotland, Ireland, and the Dominions and Dependencies have been defined by statute.

These written documents, however, relate to two main subjects: the relation of the mother country to subordinate units in the kingdom or the empire, and the fundamental rights of citizens and subjects. The driving force in British politics is based on custom. Parliamentary government and cabinet responsibility are principles unknown to the law. They rest only on custom. Yet they explain all that is practical in the British system today. The resignation of a ministry which no longer has the confidence of the House of Commons is only a custom, and is unknown to the written documents; but it is a principle which no ministry dare ignore. The unwritten law, in the judgment of British jurists, has a superior quality from the standpoint of adaptation and change. For, says Lord Chief Justice Cockburn in the case of *Wason* v. *Walter*[1] (1868):

> Whatever disadvantages attach to a system of unwritten law, and of these we are fully sensible, it has at least this advantage that its elasticity enables those who administer it to adapt it to the varying conditions of society, and to the requirements and habits of the age in which we live, so as to avoid the inconsistencies and injustices which arise when the law is no longer in harmony with the wants and usages and interests of the generation to which it is immediately applied.

The Lord Chief Justice's statement brings us to another characteristic—that of flexibility. It is a commonplace that the written constitution of the United States is rigid. We have seen that, although it is not easy to amend,

[1] English Law Reports 4, Queen's Bench 73.

changes through usage are as prominent as are the written provisions of the British Constitution. While the British Constitution has no formal mode of amendment, and no special machinery to make change effective, we may well ask whether the character of flexibility really obtains. A custom may become as rigid and inflexible as any written provision. It is likely to become more so. The essential conventions of the British Constitution seem to remain unchanged. Moreover its statutory enactments of lasting importance would be as difficult to dislodge as the American Bill of Rights. The Magna Carta, the Bill of Rights, and the Petition of Right rest on the same legal validity as an ordinary act of parliament, and may be changed in the same manner. What British subject would consider their repeal? It is idle to contend that a constitution is flexible and adaptable because it has no amending machinery and because there is no legal distinction between constitutional and ordinary laws.

The greatest change in the British Constitution comes through its constant, though imperceptible, transition. So gradual are its changes that they cannot be discovered until a landmark is reached. Time is inexorable in its march, and the British Constitution obtains its leading characteristic from this fact. It is being modified perpetually, not by changing the past, but by building on the foundations of the past. The written constitution is, after all, the more progressive way. Other countries have discarded what is wrong, and have, through written constitutions, started anew. But the British will call nothing bad. They will build on the past, and cover it with a modern superstructure. Such a system does not lend itself to deep-seated change.

The British Labor Party, when in power, sought to make certain thoroughgoing reforms, such as the establishment of the capital levy, and the nationalization of natural resources. But the temper of the Constitution

would not admit of it. American constitutional development has been vertical in character. Each accretion of law or custom has found its proper place in convenient moulds or categories. The people can, by digging to the bottom of the structure, make serious alterations in one part without impairing the remaining parts. But British constitutional development has been horizontal. Each accretion of law or custom spreads in thin layers over the entire surface. No accommodation is provided for replacements. No serious alteration can be made in a part without affecting the whole. Nor can one part be suddenly withdrawn and another placed without shaking its foundations. Its flexibility lies in its assimilative powers: the part becomes an inextricable portion of the whole. But the system does not lend itself to the treatment of political surgery. A major operation on one member would almost prove fatal. Therefore, no fundamental alteration can be made without changing the entire structure. It remains the indistinguishable admixture of the good, the bad, and the indifferent in government. It has the advantage of certain, but imperceptible, change; it has the disadvantage of making impossible the sudden application of new principles. These must await their time, spread themselves over the constitutional surface, and finally disappear in the mass under cover of new accretions. Or, changing the figure, we may cite the classic statement of Sir Henry Maine:

> But the provisions of the Constitution have acted on her [the United States] like those dams and dykes which strike the eye of the traveller along the Rhine; controlling the course of a mighty river which begins amid mountain torrents, and turning it into one of the most equable water-ways in the world. The English Constitution, on the other hand, like the great river of England, may perhaps seem to the observer to be nowadays always more or less in flood, owing to the crumbling of the banks and the water poured into it from millions of drain pipes.

The British Constitution is clearly continuous. Its his-

tory is unbroken through fourteen centuries. England has scrapped her kings and statesmen, but never permanently her institutions. Anything new must relate itself to the old. Each layer rests solidly on the last one; each step is based on some previous one. In spite of the recent changes in the Constitution, successive changes are after all mere accommodations to the practice of the past. Their novelty will in time disappear. Professor Marriott has correctly declared that there is no introduction of anything absolutely new, but that the Constitution in its change consists of the development and the improvement of the old. The British have thus fortified themselves against all sudden and violent change, whether good or bad.

B. *The parliamentary system.* — To understand the British Constitution, it is necessary to understand the theory of parliamentary government. Instead of taking the people into account directly through the election of a president, as in the United States, it is predicated on a legislative chamber which is elected by the people and responsible to it. The parliamentary system works only through the legislature and through parties. The ministry is chosen from the party which commands a majority in the popular legislative chamber. The ministry serves as an executive cabinet, each member directing a certain department of government, unless serving without portfolio. But the more important work is that of directing legislation. It actively champions a legislative program and pushes it through. The ministry is responsible to the lower house of the legislature for its collective acts of political leadership and its individual acts of administration. Should the ministry be defeated on a major issue, it must either resign or dissolve the parliament and call a special election. This is known as an "appeal to the country." The people, in case of the election, then decide the issue, either by returning the old parliament, when the ministry must resign, or by electing a new majority, in which case the ministry retains

its power. The parliamentary system, in brief, has for its organs of government a titular head of state, hereditary or elected for a term of years, who is not responsible to the legislature or removable by it; a group of ministers selected and dismissible by the representative legislative body and responsible to it; and a legislature of one or two chambers, chosen by the electorate for a term of years and liable to dissolution by the executive head.

Parliamentary government, to be consistent in theory and efficient in practice, must rest on two strongly organized political parties. Clearly, there can be no parliamentary government in a country where a single party prevails, as in Russia. In countries where there are many parties, the form may be observed but with little of the results. A majority party governs well and responsibly as it is challenged by an organized and effective opposition. The secret of successful parliamentary government in England has been the two-party system. The conditions have been ideal for its development. Then, parliamentary government with England is indigenous. It is deeply rooted in the traditions of the past. In other countries it is a transplantation, and exists at best only in modified form.

The development of the cabinet in England is in a sense the steady encroachment of the parliament on the prerogative of the Crown. The Crown, it was decided, must be subordinated to the parliament, and the executive to the legislature. The decision was arrived at through making the king's council responsible to the legislature by, first, giving it membership in the legislature, and, second, making it the legislative leader. The transition of the cabinet from the king's council to the leading parliamentary committee is a long story, comprehending the history of British institutions, which we must leave to the historian. In time, the practice of constituting a cabinet from the majority party of the parliament became a fixed tradition.

Certain principles of cabinet control have developed

through practice. One is the exclusion of the sovereign from its membership and meetings. Clearly, to do otherwise would be to abandon the entire principle of parliamentary control. The urge has been away from actual participation by the Crown. The cabinet, to perform its duties well, must articulate with the organization of the parliamentary majority. It must lead, if it is to be effective. It cannot therefore be too far removed from the support and confidence which it must have to continue its life. The cabinet, unlike the other committees of the parliament, cannot have minority representation. It can have no divided counsels. It cannot share its secrets with its enemies. To do its work, it must be politically homogeneous. The cabinet must also be collectively responsible to the legislative majority. While made up of a number of ministers and party leaders, yet it can have only a single will, and can disagree on nothing which can be carried to the House of Commons.

The cabinet of England meets daily during certain seasons of the year. Its sessions are secret, for the principle of cabinet solidarity must be maintained. In its collective responsibility the cabinet is the heir of both good and bad fortune. The success or failure of one is the success or failure of all. The ministerial responsibility flows from three sources. First, there is a responsibility to the king, who authorizes the formation of the cabinet. While formal, it must be taken into account. Then, each minister is responsible, one to the other, for the success of his own department, and for his own share in the collective business of political leadership and legislative direction. A violation of the rules which make possible cabinet integrity is generally followed by severe punishment, often in the form of a dismissal, unless the life of the entire cabinet must come to an end because of the mistake. Finally, there remains the responsibility to the House of Commons and to the country.

The prime minister is the leading personality in any parliamentary scheme. His office, like all other British institutions, is a matter of evolution. He is normally chosen by the titular executive, the king. When intrusted with the constitution of a government, he assumes responsibility for the king. To be chosen, he must command, together with his colleagues, a majority of the support of the House of Commons. He must be the outstanding and unquestioned leader of his party, or he cannot persuade his colleagues to join in a government. He must be a man of ability, not only in administration, but also in political leadership, in generalship, and in debate. He faces the opposition bench throughout the parliament, and must be ready to answer the inevitable and the unexpected challenges of an alert opposition leader. He is *primus inter pares,* or first among his colleagues, only in theory. He is the channel of intercourse between king and parliament, cabinet and parliament, and different cabinet members.

The effectiveness of parliamentary government is centered about the question of control. There has been a progressive evolution in British political control. The king was first sovereign, and remains so in theory. The Lords shared in this control, and sometimes dictated it. Then the Commons came into power by its seizure of the cabinet as its own committee. The cabinet, in turn, has developed powers of leadership of its own, and today really leads and controls the parliament. The prime minister, if sufficiently strong in personality and popular appeal, may control both the cabinet and the parliament. This was so under Lloyd George. The tables have in a sense been turned. The active executive, instead of being controlled by the parliament, leads and controls it. It may be essentially through the prime minister, or with the co-operation of the cabinet. In both presidential and parliamentary systems, in England and in America, executive leadership of the legislature has been established.

C. *The sovereignty of the parliament.*—It is important to observe the sovereignty of the parliament. The political sovereignty of parliamentary government is clear. Parliament is also the legal sovereign. The king in parliament can make all the laws, and levy all the taxes. No court or other body exists to invalidate its statutes or to give effect to laws of superior obligation. It has limits, but only the more formal ones. It is restrained, in the first place, by the fact that the people are given the last word, and it has its legal position through consent. The people elect the parliament. The legal sovereign is the creature of the ultimate political sovereign, and must finally yield to it. Then the parliament is an institution of traditions. It is limited by its past. It cannot ignore the essential character of the British Constitution, which is custom and convention.

The establishment of the legal sovereignty of the parliament was a difficult struggle. It has been a matter of keen rivalry between conflicting institutions. The king insisted on the right to make laws and to repeal them through proclamation. This right was expressly denied; but, through the dispensing and suspending powers, the king sought, respectively, to grant immunity from the law to individuals and to allow them to repeal it. This claim was denied. The houses of parliament contended with each other for supremacy until the Lords merely sought to hold their own. While the Commons can under certain circumstances legislate alone, in contemplation of law sovereignty is vested in both houses. The electorate also sought, under an ingenious theory, to control the will of the parliament, on the ground that the members of the House of Commons were merely agents or trustees for those who elected them. It was decided that the electors had the politically sovereign right of choosing the members of the parliament, but after the election the members of the House of Commons are legally sovereign in the sense that they have full control over their own acts and decisions.

They have also an independent relation to the Crown. Its legal position is fully established.

The legal sovereignty of the parliament has received the full support of the courts. In the *Case of Proclamations*[1] (1610), the judges declared that "the law of England is divided into three parts, common law, statute law, and custom; but the king's proclamation is none of them." Moreover, they agreed that "the king had no prerogative, but that which the law of the land allows him . . . ." A defendant, employed by the House of Commons, sought to cover himself with immunity from liability for the sale of libelous matter on the ground that the publication, ordered by the House, was privileged.[2] This claim was denied as one which gave to a non-sovereign body an "arbitrary power" to commit any act. "The supremacy of parliament," said the court, "the foundation on which the claim is made to rest, appears completely to overthrow it, because the House of Commons is not parliament, but only a co-ordinate and component part of parliament. That sovereign power can make and unmake the laws; but the concurrence of the three legislative estates is necessary; the resolution of any one of them cannot alter the law or place anyone beyond its control . . . ."

The attempt of the electorate to control the official conduct of members of the House is seen in the interesting case of *The Amalgamated Society of Railway Servants* v. *Osborne*[3] (1910). Osborne, a member of this trade union, had been levied upon for contributions for the support of members of the parliament, who in turn had agreed to fulfill the conditions of the constitution of the Labor Party and to be under the control of the party "whip." These measures were declared by the court to be "all fundamentally illegal, because they are in violation of the sound

[1] 12 Coke, English King's Bench Reports, 74.

[2] *Stockdale* v. *Hansard* (1839), 9 Adolphus and Ellis's Reports, King's Bench, 1.

[3] Law Reports, Appeal Cases, 87.

public policy which is essential to the working of representative government." The parliament is summoned by the sovereign to advise the latter freely. Coercion, restraint, or a money payment as the price of voting "destroys and imperils that function of freedom of advice which is fundamental in the very constitution of parliament." Electors are to be free from coercion and constraint in their election, through a majority, of a representative. But the member of parliament, too, "is to be free; he is not the paid mandatory of any man or any organization of men, nor is he entitled to bind himself to subordinate his opinion on public questions to others, for wages, or at the peril of pecuniary loss; and any contract of this character would not be recognized by a court of law, either for its enforcement or for its breach."

The king was for a long time vested with a power to dispense with the law. At first this was regarded as general. It was held in one case that the king could dispense with any law as he thought necessary, and that he was the sole judge of the necessity. On other occasions, the king was limited to dispensation with an individual breach, but not with a general law. By the Bill of Rights the dispensing power was abolished. The suspending power of the Crown gave the right to repeal laws not pleasing to persons affected by it. James II in 1687 suspended certain laws requiring allegiance and conformity to the established religion.[1] He also ordered that his declaration be read in the churches. The bishops petitioned the king against this declaration, stating that the dispensing power had been declared illegal by the parliament. They were committed to the Tower of London. They insisted at their trial that to suspend a law implied a power as great as to make it. They were released, after having been found not guilty. The suspending power was also abolished by the Bill of

[1] *Case of the Seven Bishops,* 12 State Trials (English) 183.

Rights. By the same instrument, the right of the subject to petition was guaranteed.

The legal control of the parliament over taxation has been affirmed by the courts. In a celebrated early case, Sir Thomas Darnel and four other knights were committed to prison for refusing to pay the forced loans exacted by Charles I, who could get no money at the time from the parliament.[1] A writ of habeas corpus was granted, and was ably argued, because it did not show cause for the imprisonment. If the return of the writ was sufficient, then the people could for all time be restrained in their liberties without any remedy at law. The court found for the Crown, but the parliament passed resolutions against the practice, which were at length assented to. In 1606, one Bates resisted a duty on currants imposed by letters patent by the king, much higher than the duty imposed by statute. It was argued that the levy was unjust and against the law of the land. The Court of the Exchequer gave judgment for the Crown. The House of Commons took the position that the making of laws and the imposition of taxes on the goods and merchandising of subjects were "appropriated unto the Kings of this realm with the assent of Parliament," and petitioned the abolition of the power of impositions. In the case of *Rex* v. *Hampden* (1637)[2] the courts upheld the right of the Crown to levy taxes for the defense of the realm. The policy and method of defending the realm rested exclusively with the Crown, but the expense was a charge against the entire kingdom. This unpopular decision led to restrictive legislation and eventually to the Bill of Rights, which abolished the power of the Crown to tax without the consent of the parliament.

D. *Liberty and the reign of law.*—England is much heralded as a land where the liberties of the subject are respected. Since there is no written constitution, these

[1] *Darnel's Case*, 3 State Trials (English) 1.
[2] *Ibid.*, 825.

liberties must be sought in the ordinary law rather than in any definite written form. Many of them are defined by the great landmarks of liberty already referred to, the Great Charter of 1215, the Petition of Right of 1628, the Habeas Corpus Act of 1679, and the Act of Settlement of 1700. But they are mainly to be found in judicial decisions. The British subject is entitled to personal liberty. Any detention or interference with his person without legal cause is contrary to law. The right is secured by the writ of habeas corpus. If the prisoner or his friends feel that he has been deprived of his liberty without cause, one of them may apply for the writ, which orders the detaining officer to bring the prisoner into court and to show cause why the person is detained. If there be any illegal detention, the prisoner must be released. Originally a common law writ, it became in time regulated by statute. Then, an infringement of one's personal freedom may be punished by the institution of criminal process or civil process against the offender.

There is no guaranty of the freedom of speech or of the press. Liberty of thought or of discussion is left entirely to the discretion of the subject. The test is whether a jury of twelve men will regard discussion or writing as libel, slander, or sedition. England being a land of liberty, no preliminary license is necessary to discussion or writing. What a jury of twelve men will regard as blamable will be so regarded. What they will not so judge may be said or written without penalty.

There is neither a guaranty nor a prohibition of the general right to assemble or to hold public meetings. If the object of the meeting is lawful and the manner of its exercise does not disturb the peace, those who assemble are merely doing what an ordinary citizen can do under the law without express authorization. But peace and order must be preserved. If the conduct of a public meeting or the acts of any of its members amount to a breach of the

peace, the meeting may be dispersed. It is the duty of all persons, whether officers of the peace or not, to aid in keeping and establishing the king's peace.

English liberty was turned backward when Lloyd George and his parliament, in 1920, continued the Defence of the Realm Regulations in effect during peace times as the "Emergency Powers Act." Conditions in Ireland and the coal strike were assigned as reasons. Any action taken or threatened which was calculated to interfere with the supply and distribution of food, water, light, or other necessities, or with the means of locomotion, and which deprived the community of the essentials of life, might justify the declaration of a state of emergency. Persons deemed guilty were to be tried by courts of summary jurisdiction. The police and the soldiers might thus interfere with liberties without restraint, and men in the mild exercise of basic rights could be summarily tried and imprisoned. The limited safeguards thrown about the law did not deprive it of its summary character, and it is, even viewed historically, a blot on the history of British liberty.

England is also heralded as the land of the reign of law. No one can, under English jurisprudence, be made to suffer unless he is proved guilty of a breach of the law in open court. He is entitled to his day in court. Moreover, there is equality before the law, and there is one law for all, from the highest to the lowest. This tradition of law and order is due to a number of things. In the first place, England and America are the heirs of the common law. By their very life, they have become accustomed to the reign of a law which is none other than their own making through the centuries. In the second place, the king is "over all persons in all causes, as well ecclesiastical as civil, within his dominions supreme." The sovereign is therefore the fountain of justice, and the courts of law act in his name. Some bear his name. While all acts of courts are in his name in all parts of the empire, each part of it

has its own law. Jurisdiction is usually exclusive and absolute, and extends to everything, persons and things, with a few necessary exceptions. Finally, the British subjects, through practice and administration of law, have developed a legal consciousness and a sense of order. While perhaps more critical of the political side of the government than any other people, there is on the whole a genuine acceptance of the administrative and judicial decisions of the state.

The usual rights of the accused flow to him in his position before the court as defendant. This is especially true of indictment by a grand jury and trial by a petit jury —two great institutions of our common law. These elemental rights of the accused are similar to those included in the American Bill of Rights. The British rights are no less precise or definite because not expressly guaranteed.

There are certain necessary immunities from jurisdiction. The sovereign cannot be sued by a subject. Certain government departments may, through a petition of right, be sued under statute. Foreign sovereigns, diplomatic agents and their households, foreign ships of war, and foreign armies under command enjoy an exemption under international law. Ordinary legal process is supplanted when an emergency decrees the establishment of martial law. Moreover, certain officers of the courts are exempt from certain kinds of process, in the interest of the orderly course of justice.

The British court system, civil and criminal, law and equity, is one of the most complete in the world. England leads in the development both of the substantive and the procedural law. We cannot set forth the details of their organization here.

E. *The fictions of the Constitution.*—The British retain their forms of power and authority long after the substance has been removed. The Crown is retained in great splendor, but is merely a source of order and a sym-

bol of authority. Power resides elsewhere. An aristocratic second chamber, impotent as a force in the country, is continued under the guise of a counseling body. The king is presumed to select his ministers. They are really selected for him by a political condition which he cannot ignore. But we need not pile up examples. The unrealities remain, but the actualities may be found.

F. *The empire.*—No small part of the British Constitution is its relation to the different parts of the empire. The sovereignty of the imperial parliament is the most far-reaching power in the dominions. It is presumed to apply in theory to all its parts. In practice it is restricted to Great Britain. But the fundamental laws of the dominions are authorized by the parliament.

The new imperial relations are fully set forth in the chapter on "British Imperialism," and need not be discussed here.

We have thus outlined the conception of constitutionalism as embodied in the current practice of the great British nation, with its manifold significance for the new world politics in an epoch calling for the maintenance of peaceful conditions. A similar survey of conditions in modern constitutional France remains to be considered.

CHAPTER III

CONSTITUTIONALISM IN FRANCE

The constitutional life of France is popularly regarded as beginning with the year 1789 and running through its century and more of constitution-making to the present day. But the germs of French constitutional life are found also in the period antedating the written constitutions. After emergence from the medieval period, the people of France were able to secure from the king and the nobility some limited concessions in the form of franchises. The States-General originated in a meeting called by Philip the Fair, where the delegates of the *tiers état* met with the nobility and the higher clergy in Notre Dame. This was in 1302. The meetings of the three estates were resumed in 1355. The States-General was formally called into convocation in 1484. Some of the provinces were able to continue their old constitutions. The parliaments, exercising every kind of power, restrained the authority of the king until their independence was regarded as a menace. They were progressively abolished, until Louis XV completed the process. It can hardly be said that France had a constitution, as we know the term today, before the Revolution. She had a government, which is a far different thing. Much in the way of liberty, justice, the franchise, and rights depended on the personal and moral character of the sovereign, and the upper ruling, clerical, and propertied classes. There were no clear-cut divisions of law and custom. Law was old, and custom was often medieval and barbarous. The function of public law and the place of private rights in the political scheme were nowhere adequately defined. At length the social movement made an impact against constitutional arrangements which they could not withstand. In any conflict between existing constitutional form and pressing social need, the

constitution must yield to the social need or it must go. Such a constitution as France had had was thus scrapped by the French Revolution.

We may distinguish certain conspicuous features of the French constitution as it developed in the succeeding and continuing epoch.

A. *The written character of the constitution.*—When we think of the history of France surrounding her successive constitutions, we must regard it as political rather than constitutional. A written constitution can institutionalize into fundamental law only such principles and practices as its makers and supporters are willing to live under. In less than a century there have been eleven régimes, including empires, kingdoms, and republics. The first constitution was presented to Louis XVI in 1791. He promised to support it. But kingship had for the time seen its day, and the second instrument was presented in 1793 to the people as the new sovereign. But the despot need not be a king. This time it was the Convention—an assembly which reported the constitution of 1795, giving power and control to a few. This evolution from democracy to despotism led to the inevitable seizure of power by one man, and the Empire displaced the Republic. One of the historic issues in France has been that of republicanism versus monarchism. Republicanism was doomed under Napoleon; but it reappeared, was defeated, and eventually triumphed in the form of the Third Republic. The story of this record can be found in the organic acts of the changing French constitutional authorities. The present republican régime —the Third Republic—is the result of French constitutional history; to be more accurate, of French political history.

The truth about the permanency of French constitutionalism is not found in the pastime of "counting constitutions." A few historical facts will reveal the truth that the French, after all, have adhered to a few funda-

mental republican principles. The constitution of 1793 was soon suppressed. That of 1815 was never applied. The constitution of 1830 was merely an amended form of the charter of 1814. The constitution of 1852 simply reproduced that of the Year VIII. Napoleon III governed France for almost a generation under the constitution of 1852. By successive senatus-consults, he established and completed the structure of the hereditary empire, permitted the legislature to address a reply to the message of the Crown, granted the right of interpellation, established the principle of ministerial responsibility, and through a new instrument (April 23, 1870) sought definitely to guarantee the future of the Napoleonic dynasty. While these were thoroughgoing changes, they did not take the form of new constitutions, and were adaptations of the Constitution of 1852. The more basic organic acts include the constitutions of 1791, 1793, 1795, 1799, the constitutional charter of 1814 and the additional act of 1815, the constitutional charter of 1830, the constitutions of 1848 and 1852, and the constitutional laws of 1875. The significance of each must be explained in the light of surrounding political and social events, and in the light of prior constitutions.

The French Constitution today does not rest on a single organic act, as did those of the First and Second Republics. Indeed, the laws now governing France were never adopted by a constituent assembly. They are really a series of organic acts which, taken together, make the French Constitution. The first three, passed in 1875, form the backbone of the constitutional system. The first of these establishes the President, prescribes his powers and the mode of his election, and the form of amending the Constitution. The other two deal with the organization of the Senate and the relation of the public powers. Subsequent acts are in the main amendments of these, and deal with the legislature, the public powers, electoral laws, and ballot

laws. The latest revision was the insertion into the Constitution, in August 1926, of a tax law which placed the taxing power beyond the interference of changing parliamentary majorities.

The French Constitution is classified by Lord Bryce as a rigid one. This concerns its method of amendment. It is not changed by ordinary legislation, as in England and a number of other countries, but it has a special machinery set up by the first of the series of constitutional laws. The chambers of the legislature may by separate resolutions, on their own initiative, or on the advice of the President, declare a revision of the constitutional laws necessary. After agreement between themselves, they meet together as a National Assembly, and proceed with the revision. The separate votes agreeing to a consideration of the question of revision, and the first vote of the National Assembly, must be by an absolute majority. When meeting for this purpose, the Assembly sits at Versailles. By a law of August 13, 1884, it was decreed that "the republican form of government shall not be made the subject of a proposed revision." Thus, the republican principle is placed beyond the amending power, as is the principle of equal representation in the Senate in the American Constitution. However, these limitations probably could be amended in both constitutions in the usual manner, should the amending authorities choose to do so.[1]

The French constitutional laws are interesting for their exclusions as well as their inclusions. Only the basic essentials of government organization, powers, and structure are listed. There is no Bill of Rights defining the liberties of citizens. The theoretical expositions of previous constitutions respecting rights, sovereignty, and rep-

[1] In France, the two houses would merely proceed to revise the Constitution in the usual manner. In the United States, there is a double safeguard. First, the Supreme Court would probably declare the amendment void; and, second, the states probably would never agree to a change in the principle of equal representation in the Senate.

resentation are omitted. The legislative department is not restricted in its authority or activity by constitutional mandate. Obviously we must look beyond the written law.

B. *The parliamentary system.*—The theory of parliamentary government has been stated in full. We need concern ourselves only with the French application of this vital principle. The success of the system depends on two well-organized parties—one in power and the other in opposition. Where the party in power must bargain for support from outside groups, its control is weakened. The constitutional results of the multiple parties in France are seen in the actual workings of the parliamentary system.

Unfortunately, there is little effective relation between the parliamentary groups and the corresponding party organizations. Each deputy and senator associates himself with such a group. In theory, they represent party organizations. But the connection is slight, and the control of the party is negligible. The groups of the right and the center make little effort to co-ordinate their interests and activities with those of their party organizations. Only the Socialists, the parties of the left, insist upon a definite connection between party claims and allegiance, and parliamentary programs and activities.

It is true that the parliamentary groups are organized. They hold caucuses and have committee representation in proportion to their numerical strength. Their votes are presumed to be homogeneous, but they are infrequently so. No majority can be formed without a combination of these groups. They are changing constantly in personnel. Under these conditions, a consistent party policy seems impossible. Adherence to a program, allegiance to a party, so necessary under such a scheme, are lacking. The groups will appear, dissolve, shift, and return, with baffling frequency. Party discipline is essential to a parliamentary responsibility. This is the key to the weakness of French parliamentary government.

Party disorganization is fully reflected in the political and sometimes in the administrative field. The President of France, the titular head of the state, must select a premier, who must, in turn, form a ministry from different groups, working such combinations, compromises, and bargains as the political situation may require. These coalitions are held together only by a desire to be in power. When ambitions are not realized, the combinations fail. They are numerous—too numerous even for effective compromise. The reconciliation of a host of conflicting interests is a difficult task. No sooner are the foundations for concerted action laid than the forces of disintegration are at work. Their interests change. They become independent. Moreover they are undisciplined. Consequently, ministries fall, and there can be no sustained policy.

Ministerial crises are not so serious as in England. The causes are not so deep-seated. The comparative freedom of the administrative service from politics neutralizes some of the bad effects of ministerial instability. Nor can it be charged up strictly against French constitutionalism of today. France's political career since 1789 has been stormy. She has been twice an empire, and a monarchy and a republic each three times. Even under the comparatively stable conditions of the Third Republic, there have been violent interferences with the formal executive. Unless the presidency is reasonably secure, little can be expected of the political executive from the standpoint of stability.

An undisciplined party and an unstable ministry mean a dominant and irresponsible parliament. In England, the Prime Minister and the Cabinet lead the legislature. In France, the Cabinet follows the Chamber of Deputies. No ministry need expect any consideration. Interference is regarded as a clear right. Its affairs are the parliament's affairs. The parliament dictates its policies, and compels it to assume the position and psychology of defense, which makes leadership not only perilous but impossible. The

French Premier seems a prisoner in a political dock, accused of offenses with such lightning rapidity that most of his effort must go to the negative business of explanation and justification. Oral or written questions may be directed against the ministry. The practice of interpellation is the most direct attack on a cabinet. It must be made in writing, and becomes a special order of the day. After the debate, a vote of confidence or lack of it is taken. It is a necessary but abused feature of the French parliamentary system. It wastes time, and its object is chiefly political embarassment. Many Frenchmen would like to see the ministry rescued from the clutches of irresponsible, capricious, and inconsequential parliamentary groups. Unless some French republican will lead in this rescue, a French Mussolini may show the way to it.

It is difficult to predict the future of French parliamentary government. For the period of the war, parliamentary features were dropped for a sort of government which would act rather than debate. It could not withstand the exigencies of war. After a decade of reconstruction, it hardly seems to deal adequately with the problems of peace. In England, where the two-party system has made possible its best functioning, its efficiency has been impeded by the present three-party régime. The European governments have needed stability more than anything else during the difficult period of adjustment. The parliamentary system has not afforded that measure of steadiness essential to a period of stress and strain. The French government has functioned, as it always will. But Frenchmen admit that it has not dealt effectively with the major problems of peace and reconstruction. The cabinet system has been under the fire of many who must live under it. Their judgment of its efficacy or failure is much more eloquent than the adulations or the strictures of foreign observers. To escape the caprices of party majorities, the French Chamber was compelled to put the necessary tax legisla-

tion into the Constitution. Perhaps this may be the "way out" for France. Constitutional legislation may be regarded as above party strife and parliamentary bargaining; it may entail a larger use of the Constitution, but it preserves republicanism.

There must be some answer to the yearning of European governments for more effective administration in government, and less of parliamentary programs and ministerial crises. Some provision must be made for a greater functioning of cabinets and executives. Many of our cherished rights and liberties have come from parliamentary systems. More than any other force, they have developed the important principle of government responsibility. But the abuses of unnecessary interference must be remedied. The reaction may become so strong that dictatorships may be established. While this course remedies some of the defects of the present system, the advantage of popular control is lost and the course of democracy is turned backward. It becomes a confession of defeat on the part of representative assemblies.

C. *The multiplicity of parties.*—The most potent influence on the French constitutional system is an extralegal development—the multiplicity of parties. This phenomenon explains many of its virtues, and sheds light on its major difficulties. It is a condition which will hardly be changed, for it is an indigenous growth. French parties are organized to represent the opinions of their adherents rather than to secure a concrete expression of party opinion at the polls and in the parliament. This fact is difficult for the English or American practical politician to understand. It is a manifestation of mental and spiritual values of politics, rather than practical ones. The groups are ever-changing, but their members are sincere in their allegiance to the party principle, not to the party organization.

The large number of parties is due in part to French political psychology. The French mind is temperamentally

opposed to compromise. It cannot be reduced by a process of standardization, as is common in the United States with its two great parties. The legislature is so organized as to give expression to every major shade of thought. The people differ radically on all questions. While the groups will combine in the parliament to form a ministry, yet they retain their party integrity. If the combinations could be made in the party organizations rather than in the parliament, the problem might be solved. It must be admitted that much of the activity of the Chamber of Deputies is party business, not legislative business. However, each political principle or doctrine has an enthusiastic following, which thinks it must be represented in a group. It must stand on a platform and nominate candidates. Party compromise and association on a sufficiently large scale would probably yield better results than parliamentary compromises. This rigid adherence to political doctrine means independence of mind. A party caucus cannot bind in France as it does in England and the United States. This implies a lack of discipline and control by parties over their adherents and representatives. But there is a brighter side. The political thinking of the Frenchman is highly developed. Issues and principles are taken seriously. Decisions are reached only after the most earnest, painstaking, and often heated consideration. The Frenchman's party adherence and vote has the superior merit of springing from deep conviction. Taking one's civic responsibilities seriously is a much-needed characteristic in other democracies.

While the French type of mind rebels against a standardization of political belief, another factor has contributed to the existence of a number of parties. The Third Republic is the heir of a number of past issues which persist. They have no essential relation, one to the other. The opposing factions of each of these issues must find parliamentary representation. Those who desire a conservative

republic are divided against those who desire a liberal, popular one. The issue of Socialism is always present, the revolutionaries opposing the reformists. Clericalism remains an issue, with a parliamentary group supporting its aims. Monarchism is opposed by republicanism. The parties sit in the parliament according to the conservative, moderate, or advanced stage of their political doctrines.

It is difficult to understand, in a country where administration is so centralized and standardized, and where convenient parliamentary combinations must be made for working purposes, why associations of the politically like-minded cannot be made. The Frenchman will agree to almost autocratic administration and will join in an effort to form and administer a government, but he will maintain the integrity of his political thought to the bitter end.

D. *A unitary state.*—France, unlike the United States, is a unitary state. The tradition of local self-government, so vital to the British and American constitutional systems, is absent in France. The details of local government organization do not concern us. We are concerned here only with its philosophy. The departments, arrondissements, cantons, and communes are units of administration —not units for local control. There is no reason for such autonomy in the French department as is required in the American state. The country is comparatively small, and a single system of government will do for all. Nor do the French feel the necessity of holding the control of local affairs in their hands as we do in America.

But the more important reason for centralization goes back to the Revolution. When the national spirit of the people is so stirred that a central constitutional government is established, such a government, springing from the people, will return an adequate system of community administration. As the citizen gives freely and fully, he receives full measure in return. The history of the modern nation-state is the struggle of local communities for lib-

erty, mainly until a sufficient combination of communities has been formed for purpose of protection. The nation is established, absolute in power, and superior to all other political forms. To have power and unity, it must have the support of its component entities. They in turn receive protection, and the central government returns to these units such autonomy as is compatible with good government.

This philosophy has much to its credit. There is no local allegiance—France gets it all. National issues are ever in the public mind. But there is little opportunity for the people to share in determining local policies. The French citizen has more direct control over affairs at Paris than in his own community. Many who might be capable of thinking locally do not have the capacity to think nationally. Then, federalism and local self-government direct attention to channels which do not lead to war. They act as an effective check against a dangerous and unreasonable nationalism. A citizen living under a federal scheme has more to do than to think of his state in terms of power, prestige, and fear and hatred for other nations.

E. *The legal system.*—The civil law of France furnishes a striking contrast to the common law of England and the United States. Its roots lie in the Roman law, but its more immediate source is the *Code Napoléon,* under which heading the Emperor reduced the French law to a definite form. He was far from modest though perhaps quite accurate in his judgment of the result, for he declared: "My code alone, because of its simplicity, has done more good in France than the sum total of all the laws that preceded it." The French legal system is not bound by the tradition and custom of the past, as is the common law. Moreover, French jurisprudence is not bound by previous judicial decisions. There is no doctrine of *stare decisis,* which compels the backward look. The French judge may use precedent in making his decision, but he need not be mastered by it.

In England and America, the bench is a post of honor which is reached only after long and distinguished service at the bar. A strong professional spirit has given it the best of traditions. In France it is not a part of the lawyer's profession but is a special calling. The young men, after completing their legal studies, enter immediately upon their judicial duties. The judge's type of mind is regarded as different from the advocate's. This practice has given a special distinction to the bench of France, and has attracted to it the ablest legal talent of the nation.

France has a system of administrative law, interpreted by administrative tribunals. A capital distinction is made between private litigation and charges against public officials. Where a public official is charged with neglect of duty, either against his superior or the public, the complaint must be brought before the administrative courts. The practice is defended on the ground that judges of private law are not competent to deal with offenses against the public; such courts, interested in the rights of citizens, would be unsympathetic with the claims of the state. It is also contended, against the system, that the administrative courts are merely agents of the government which give public offenders a preferred and special status before the law.

And now, how about the prospect of a sound politics of peace in France? The question cannot, of course, be answered comprehensively here. But so far as political theory and practice influence the emergence of such a new order, we can safely say that the present French system will have to be profoundly modified before the country can fulfill its destiny in the larger brotherhood of the world. No country can cope with the growing interdependence of human relations except on the basis of a clearly conceived policy firmly adhered to. As we have seen, the French political party system is utterly incompetent in this respect.

It can neither lead to a clear perception of world issues nor commit the nation to a program over a long term of years. Next to the party system, we must list the excessive centralization of government as an obstacle to economic and social progress, not so much within the boundaries of France herself as in her external relations. Peculiarly provincial because of their economic and cultural self-sufficiency, the French have made themselves still more so by their over-centered and self-centered government.

PART II

NEW FORCES WITHIN AND WITHOUT CONSTITUTIONALISM

CHAPTER IV

THE MODERN INDIVIDUALIST AND HIS CLAIMS

Constitutionalism the world over is exposed to a multitude of forces without and within which tend to alter its structure if not its actual direction. Nowhere do we find a government which fully measures up to contemporary demands. Everywhere we find forms and practices which were determined and fixed by conditions that have long since passed away. To understand what is likely to happen to these, we must next study the larger human trends all over the world.

First and foremost among these is the drive toward a higher individualism. This is peculiarly strong, largely because those who are most insistent upon the fullest preservation and development of their own personalities are people of superior mentality and energy. They have been goaded into fresh activities because of the excessive domination of system and standardization in modern life. The individual has been submerged and overruled until the strongest among his kind have rebelled. And few of us doubt that it is a wholesome rebellion.

Many are the forms in which this reaction manifests itself. Now it appears as philosophical anarchy, now as collectivism, now as Bolshevism, and now as a colorless internationalism. To understand the probable changes which the next fifty years will bring to pass in the leading governments of Europe and America, we shall have to scrutinize each of these modern reactions. First of all, we must look at the underlying philosophy of individualism, for out of this all the special varieties have flowered. As an American I may properly draw most of my illustrations from American conditions.

The individualist argues his case from the standpoint

of rights. One can discover the philosophical foundations of these rights in an examination of the views of Hobbes, Locke, Spencer, and Mill. Such rights may be divided, for the sake of clarity and convenience, into definite categories. Each right or group of rights presupposes a sphere beyond the power of the state to interfere. They divide themselves conveniently into the rights of conscience or religion, the right of property and contract, the rights of related social institutions, the right of individual liberty, and the right to immunity from process of law unless according to established forms. Still another right of the individual will be considered in the next chapter. Let us first consider the five listed above.

A. *The rights of conscience.*—Rights of conscience are among the most fundamental of rights. They constitute the last sphere which the state might be expected to invade. The state is not the keeper of men's consciences. It is clear that no authority, not even the state, can stand between man and his Maker. The right of conscience is the most sacred of rights. The Congress of the United States is forbidden to pass any law respecting the establishment of religion, nor can it prohibit the freedom of religious worship.

The argument of the Virginia Statute of Religious Liberty is that God created the mind free; that influencing it by temporal punishments or civil incapacitations not only begets hypocrisy but is a departure from the non-coercive character of the Christian faith; that assumed dominion over the faith of others by legislators and rulers, civil and ecclesiastical, is an "impious presumption"; and that civil rights have no more dependence on religious opinions than on opinions in physics and geometry. Accordingly, the Virginia General Assembly enacted "that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor

shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess and by argument to maintain their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities."

The famous document remains in spirit the law today with respect to the consciences of men. Yet one cannot, in the domain of conscience, hold one's self aloof from the laws of the state. The state alone can give to the individual his rights of conscience. And these rights, while more sacred than others, are like the others in that they are subject to the control of the state through law. No one may, in the name of religion or through a religious ceremony, violate the laws of the state. Polygamy cannot, under the form of an approved practice of any creed or faith, be held to take precedence over the laws regulating marriage. Religious belief cannot absolve one of his duties to defend the state when called upon in time of emergency. The greatest freedom is given the individual by the state in the enjoyment of rights of conscience; but the right cannot be abused. Religion cannot because of its special protection be used as a refuge from the jurisdiction, the laws, and the authority of the state.

B. *Rights of property and contract.*—Certainly no individual right is more fundamental than the proprietary one, that of property and contract. It was one of the great trilogy of rights insisted upon by Locke. Among the bill of complaints in the Declaration of Independence were a number of grievances affecting economic and property interests. The retention of private property today and its protection by the state is evidence that it is regarded as one of the purposes for which governments were instituted.

The makers of the American Constitution clearly sought to make a government which would adequately protect private property. A scheme of representation was devised which would if possible neutralize the great con-

flict between the propertied and the propertyless classes. Under the right of eminent domain property may be taken by the government for a public use, but only for a just compensation. The state must take property at times for its own use; but it must protect the individual in return. Under the American Constitution, no one may be deprived of property without due process of law. This means that any vested interest in the form of property cannot suffer deprivation without the common law practice of a judicial trial, with all the legal safeguards which flow to the individual. But property may not be used to prejudice the public interest. Under its police power, the state may interfere with property in the interest of the health, safety, and morals of the people, without any act of deprivation. The state does not hesitate to abolish property of great value when the interests of humanity so dictate. At one time an entire section of the country rested its economic system on slavery. But this property in man was abolished, without compensation.

The liquor business in the United States represented at one time an investment of millions of dollars. But local and state governments interfered with the investment progressively until prohibition became a part of the United States Constitution. Thus vast propertied interests were destroyed without any notion of compensation. The method of acquiring property is regulated by the state. Its use is also regulated by the state. Private property exists as an institution, but the extent of its enjoyment is defined by the state and must be limited by the interests of the public. Public policy has always prevailed over the property rights of the individual.

The individual also enjoys the right of contract. No state may, under the American Constitution, pass a law which impairs its obligation. Certainly the state may change the law which provides for the enforcement and validity of the contract, but the change cannot affect rights

to and under contracts which have enjoyed the protection of the law at the time they were made. The obligation of the contract is the law which provides for its enforcement. Moreover, the Constitution of the United States protects the individual in his freedom to enter into contracts. Under the Fifth and the Fourteenth Amendments, the Congress and the state legislatures are respectively forbidden to deprive one of liberty without due process of law. One such liberty is the right to enter into contracts. Recent constitutional decisions show how the unlimited freedom upon this right was a bar to legislation which is meant for the social good. The answer to the question is not an attack on the Constitution but the change of the provisions to meet the needs of a changing world. The protection under the provision is given by the state; it may also be taken away by the state.

C. *Related social institutions.*—Other social institutions have their rights, which the state must protect. They include the home, the church, the school, and other voluntary associations. It is important that the family, and the domestic relations of husband and wife, parent and child, guardian and ward should exist. The state needs them and cannot do without them. But these relationships are legal as well as social. It may be necessary for the state to intervene in the interest of one of the parties. Parents have a peculiar and proper claim to authority over their children. It may be in the interest of society for the state to provide special protection and guardianship for the child. So in the other social and domestic relationships. The church may sanctify a marriage, but only the state can make it legitimate. Moreover, only the state can dissolve it.

The church also deserves the protection of the state. It has certain rights. It contends for supremacy in the spiritual domain. But the state must say what that domain is, and must define the scope of the church's immunity, and

the extent of the state's right to intervene. The claim to absolute immunity cannot be made by the church. It has been necessary, throughout history, for the state to make regulations affecting the practices of churches. Left alone and unrestrained, they can become the most intolerant of institutions.

Education is regarded as the function of the state, although it cannot be said to amount to an exclusive function. Training of the youth, whether under state control or under private auspices, should be kept free, but the state must have a sufficient degree of control to be able to prevent abuses. Its powers of review should be in the interest of standards. The question of its positive interference with curricula will be discussed under another heading. Certainly no system of education may be permitted which preaches the destruction of the state.

The degree of rights which belong to other voluntary associations will be discussed elsewhere. While the voluntary association may claim the protection of the state, it cannot set itself up as the state's rival and as immune from its regulation.

D. *Right of petition and of expression.*—Individuals insist upon the right of petition and of expression. Thus the Constitution of the United States guarantees the right to assemble peaceably, and to petition the government for a redress of grievances. Denials of these basic rights have led to revolutions and to political upheavals. But they must be exercised in an orderly manner. The right of assembly is used daily by millions of groups, religious, social, political, and commercial. It will not be interfered with as long as its purpose is legal. The right of petition must be kept within the limits of what is lawful. It is not permitted, especially in time of war, to petition for things which are prohibited under the laws.

The right of expression means the freedom of speech and of the press. The American Constitution, while pro-

tecting the right, has not intended to grant immunity for every possible use of language. Criticisms of the government, written or spoken, have in times of peace and war been made actionable as measures designed to bring the government into disrepute or to resist its lawful ends. This interference is more pronounced in time of war. It is difficult to strike a proper balance between the claim of the state to immunity from sharp criticism and the right of the individual to speak and write his mind. Clearly there are limits to both, and the courts must say where the boundaries are transgressed.

E. *Rights of minorities.*—This subject has two aspects. There are, in the first place, the rights of legislative, representative, and political minorities, which have been ousted from political control owing to the preponderant strength of the majority. The modern democratic state is predicated on the theory of popular sovereignty. It attains its purpose through the principle and practice of majority rule. We need not enter into the interminable rights of the minority. Majority rule is established. The only practical question is: What are the rights of political minorities under the rule of the political majority?

Thomas Jefferson, more than any other American, championed the principle of majority rule. To him, the stuff of which republics were made lay in the rules established by the majority. He advocated absolute acquiescence in the rule of the majority by all members of the state. The right of election by the people and the rule of the majority were declared to be two cardinal principles of democracy. But many great Americans have been distrustful of the unlimited authority of majorities. John Adams declared that all majorities, where unchecked, in time usurp the rights of the minority. Alexander Hamilton argued that the "few," the rich and well-born, should be given a distinct and permanent share in the government in order to check the unsteadiness of the "mass," which

was turbulent and changing and which seldom determined right. James Madison, realizing that factions were due to an unequal distribution of property, suggested a scheme of checks and balances which would prevent the majority from carrying "into effect schemes of oppression." Calhoun believed that the numerical majority would usurp the rights of the minority, and accordingly proposed a majority of interests, in which all minorities would have adequate representation. President Wilson attacked the Republican minority for blocking his measures, declaring it a manifestation of the dilatory practices of all minorities.

Clearly, political minorities should have the right to oppose and to criticize. They should not have the power permanently to obstruct. All minorities should have the basic rights of citizens and groups, and should suffer no discrimination merely because they are competing minorities. The framers of the American system of government felt that some things should be put beyond the immediate control of the majority. In the first place, the government was made a representative one, so that the people must act through agents chosen for the purpose. Again, the Constitution was made by the courts of superior application to the laws of the national legislature. Its method of amendment was made sufficiently difficult to cause serious reflection before making fundamental changes. Individual rights, by their inclusion in the fundamental instrument, are beyond the interference of the legislature. Finally, the powers of the legislature are defined and limited, and for this reason the Constitution of the United States is written. The minority has the right to enjoy legal rights, and to have the right of political opposition to the majority. But it does not have the right to prevent the considered will of the majority, if democracies are to survive.

In the second place, we will mention briefly the claims of subject nationalities which may be included within the same state and subject to the same sovereign or govern-

ment. We give attention under another heading to recent provisions for giving effect to these minorities. Where a country is inhabited by groups of different race, language, faith, and traditions, such groups will often find themselves in the minority, and must submit to measures of which they do not approve. Clearly, the rights of the minority cannot operate to the prejudice of the state. Under our present theory, their claims should not be allowed to lead to war, and all rivalries should be reconciled in the interest of peace. It seems clear that a people living within the confines of a state is entitled to its language and especially its literature. It has the right to cling to its basic customs and traditions. It must be allowed to follow its own faith. It should order its own moral and intellectual life. To the extent that the practice is compatible with national unity, the people should be allowed to retain their own positive laws or legal system. Deference to these principles may be allowed any orderly minority.

Under the federal system in Canada, the French Canadians, living in the province of Quebec, not only follow their own faith and language, but in provincial affairs follow their own legal system and order their own political life. In Louisiana, the civil law rather than the common law prevails. This is due to the influence of early French settlements in New Orleans and the territory of Louisiana. For the same reason, the legal systems of California, New Mexico, Arizona, and Texas might logically have rested on Latin foundations. Our practically uniform adherence to the principles of the common law may not be an unmixed blessing. The institutions planted by Spain, if allowed to work, might have taught us some valuable lessons; certainly we should better understand the Mexican side of our present controversy with that state if several of our states adhered to her legal system. Moreover, such an adherence would tie us to our neighbors on the south, as our common law system ties us closely with Great Britain.

F. *The right of individual liberty.*—This claim has been advanced through the classic defense and statement of John Stuart Mill. It is the basis of individualism, from which all of its corollaries are derived. Of the different kinds of liberty it is the most important, and all others flow from it. Locke included liberty as one of the great natural rights, and he set up a condition of society based on these individual liberties. The purpose of the state was to secure liberty to the individual, and if it did not do so, the government might be overthrown. Blackstone took the position that political liberty was merely natural liberty, restrained by human laws only as expedient for the general advantage of the public. Under the Declaration of Independence, liberty was one of the inalienable rights with which all men are endowed by their Creator. To give effect to this principle, it is necessary to restrain the state in arbitrary invasions of individual rights, and to restrain the individual in its inroads against the life of the state or against the rights of other individuals. On the positive side, both must be given adequate scope within the proper limits of state and individual life.

A strong government is often the best guaranty of individual liberty. While a government may be so weak that it cannot invade the sphere of the individual, it may also be so weak that it cannot protect him in the enjoyment of his rights. Government is always the problem of reconciling liberty with authority. The state will die without power. With too much power, the liberties of the individual are endangered. The Constitution of the United States, as in the case of other constitutions of government, is designed to preserve individual liberty. One of the reasons for its adoption was to "secure the blessings of liberty to ourselves and our posterity." But such blessings are not incompatible with a "more perfect union." By the Fifth and the Fourteenth Amendments, as already noted, the federal and state governments, respectively, are for-

bidden to deprive anyone of "liberty without due process of law." This use of the term "liberty" gets at the heart of the matter. It means that the individual may follow his freedom in his personal conduct without arbitrary restraint. The limits of individual action are properly defined by the law. Reasonable restraints not only do not invade the blessings of liberty but in fact preserve them. The individual, then, within his sphere, has the right to immunity from arbitrary state action. But the state must, here as elsewhere, define the degree of immunity.

G. *The right to established legal forms, and to adequate legal defenses.*—The end of the state in the enforcement of law is the determination and the administration of justice. Where private individuals are parties in litigation before a court of law in a civil case, the state attempts to referee the controversy, to insure to each its legitimate rights of suit and defense, to arrive at a just settlement, and to enforce that settlement in the interests of the party whose rights have been invaded. The American national and state constitutions preserve the right of trial by jury in suits at common law where the value in controversy exceeds a given amount. Federal courts are bound by a unanimous verdict in such cases. Some of the states permit a verdict in civil cases by a number less than unanimity. Facts already tried by a jury a Federal Court may re-examine only according to the rules of the common law.

Then, under our state and federal governments, no one can be deprived of life, liberty, or property without "due process of law." Under our early constitutional practice, this term implied certain procedural limitations in the interest of the individual. In the words of Daniel Webster, it was a law "that hears before it condemns, which proceeds upon inquiry, and renders judgment only after trial." It implied the legal proceedings according to the principles established in our legal systems for the protection and the

enforcement of private rights. Legal forms and defenses were to be preserved; a man must have his "day in court." But with the adoption of the Fourteenth Amendment to the American Constitution, the term "due process" covered also the prevention of arbitrary legislative and administrative acts and the prevention of the invasion, by state governments, of the basic rights of citizens. Such an interpretation has enthroned the rights of the individual over the action of the states and within the protection of the federal courts.

Positive rights are guaranteed to the person accused of crime. The state, with its vast legal machinery and its endless resources, appears as a vigorous plaintiff against a comparatively weak defendant. The prisoner in the dock is entitled to at least the elemental rights of defense. One of these is indictment by a grand jury. The opinion of the prosecuting attorney is not enough to hold one to answer for a crime. The grand jury does not convict or acquit, but merely passes on the sufficiency of the evidence. If there is not sufficient evidence, then the case does not go to trial.

No one may be compelled to be a witness against himself, and all may thus escape the penalty of self-incrimination. In criminal trials the accused must be afforded an open and speedy trial in the region where the crime is alleged to have been committed. He must be informed of the nature and cause of the accusation and is entitled to be confronted with the witnesses against him. He may have compulsory process for obtaining witnesses in his favor. He may have the assistance of counsel for his defense. He is entitled to a trial by an impartial jury. Excessive bail is not to be required, nor excessive fines to be imposed, nor cruel and unusual punishments inflicted. The privilege of the important writ of habeas corpus may be suspended only in extreme cases. Bills of attainder and ex post facto laws are forbidden to legislatures. Treason,

the most terrible of crimes, is defined by the American Constitution. Society has found it necessary to protect the rights of the accused. But such constitutional guaranties are counsels of perfection.

Law is no better than its administration, and there is no more justice than that which is determined and enforced. The improper use of these defenses has allowed many of the guilty to escape. On the other hand, many guiltless ones within the walls of prisons and jails furnish mute evidence of the miscarriage of justice and of the inadequate use of legal defenses. There is a widespread agitation against the law's delays, and against allowing the least advantage in the defenses granted the accused. The demand today seems to be that of interpreting the claim for defense liberally for the prosecution and strictly for the accused. This will hardly solve the problem of increasing crime. The task of the accused in proving his innocence is serious enough. The more effective thing would be for the state to bring to the bar of justice those who escape. The great increase in crime flows, not from the abuses of those who get into the courts, but from the acts of the many who never get there. The state hardly needs to speed up its conviction of crime. It seriously needs to speed up its apprehension of crime.

The importance of these elements of our political organization with respect to stability in modern life will appear more clearly as we proceed. We must now examine yet one more factor in what we know as individualism.

CHAPTER V

INDIVIDUAL SELF-DEVELOPMENT

There is one type of individualism which all parties defend and which they seek to preserve. They may quarrel as to its meaning, its limits, and its means; but they agree as to its value and as to the ideal. This is the right of the individual to the development of himself under conditions which encourage rather than discourage individual development. It is the business of the state to promote rather than to retard this development. It is the state's business to help the individual to help himself without injuring his neighbor. Due performance of this function may in the end be the greatest contribution of modern times to our political and social theory.

One of the corollaries of individual self-development is equality of opportunity. In our modern economic life, the battle may go to the strong and the race to the swift, but the rules of warfare should be equally applied to all parties and all contestants should start on the same line. Therefore, equality before the law and equality of opportunity under the law should be the ideal of every state. Inequalities must and do exist but not the inequality of opportunity. The *Federalist* argued that the representative body of the American government should consist of the landholders, the merchants, and the men of the learned professions, on the ground that they were best prepared by training, fitness, and interest effectively to represent all classes. But, said the *Federalist,* "the door ought to be equally open to all," for "there are strong minds in every walk of life that will rise superior to the disadvantages of situation and will command the tribute due their merit, not only from the classes to which they particularly belong, but from the society in general." This is the keystone of American political philosophy. Nothing distinguishes its practice so

much as the attempt to guarantee an opportunity for all. In a discussion of principles, space does not permit an examination of the long practice which has given application to this ideal.

Where the principle of equal opportunity prevails, it seems clear that a system of equal rewards cannot prevail. Under a system of state socialism, or under anarchism, where communal ownership prevails, and where all share alike in the rewards of effort, there is little need to provide an equality of opportunity. No matter how unequal the start, the result will always be the same. Persons of towering intellect need only contribute a small part of their powers to the good of society. Their compensation will be of the same degree. Society and himself will share and lose in equal degree as he gives and withholds. We accept as a postulate that law cannot change certain natural inequalities. All it can do is direct effort into profitable channels and prevent unjust and unfair advantage on the part of those more gifted or in the better situation. It is a principle of life that rewards and punishments should be variable. The degree of punishment will depend on the atrocity of the crime. It is pure nonsense to contend that murder in the first degree should have the same penalty as the violation of a simple police regulation, or that treason and burglary should be punished with the same penalty.

It is just as absurd to contend that the rewards of commercial and professional life should be the same. Industry, energy, intelligence, and a superior skill will command a greater reward than commonplace abilities in any scheme of things, political, social, economic, or religious. In political life, the greater rewards go in the long run to those who have the greatest political art and who, indeed, have the greatest political understanding. Society has its rigid stratifications; one must come to it possessed of qualifications. Admission to the higher levels, so-called, will go to those who excel in these qualifications, and, clearly, admission

is denied altogether to those who have them not. This principle, already so obvious in our economic life, should require as little demonstration in our political and social life.

In the field of organized religion, the positions of leadership go in the main to those who have the capacity to lead and direct. Even in the organized social movements, the masses follow the leadership of the very few, and the success of a movement varies with the intelligence and the skill of the leadership. It is committed to one man or a group of men. In their practice is found the very negation of the philosophy they preach; if this were not so, then all would share alike in the movement, and all would have an equal voice. In trying to bring about the revolution and the socialistic state, the socialist becomes the greatest of individualists. It is impossible under any scheme to reduce the powers of leadership to the level of the plodder. Plodding, while necessary and commendable, cannot bring the chief rewards of life. The plodder follows the leader, hoping that he may in time become the leader. If the rewards could be the same, he would not hope for a change of status. Fortunately, no social scheme yet devised or proposed has had this result.

The leveling influences of democracy and of equality are abroad in the land today. Nothing need be done to encourage it. Give the common man a chance! Let the average citizen have his day in court! This is excellent for the purpose of counting heads on election day. As long as we are governed by the principle of the numerical majority, it will be impossible to weigh votes according to wealth, intellectual ability, or otherwise. And in economic life, the average man should have this equality of opportunity. But is it not time that those of exceptional ability be given a consideration which their superior ability deserves? In life it works out that such ability receives its reward. No law can prevent it. Is it wise to spread the cult of incompetence

so widely? The masses will benefit, not by the restriction of achievements and rewards for the more competent, but by their expansion.

If all superior minds are brought down to the level of the much-discussed ordinary man, the higher levels are destroyed; and the common man, who must be stimulated by the example of superior things, will have nothing to aspire to. He cannot manufacture ideals. They must be before him in the form of concrete example. Most of the progress in the world in all fields of endeavor has come from the influence and example of individuals or small groups. The masses are willing to follow the leader in the field of the leader's demonstrated mastery. The master-mind, the intellectual, the one who dares to think, must lead the way. An Edison must discover the radio, the electric light, and the telephone before these become the common property of civilization. A Burbank must experiment with plants before the world of commerce can benefit by his scientific discoveries. Men of genius must paint the great pictures and compose the great masterpieces before consciousness of them on the part of the world can be manifest. Think of the contributions of Shakespeare to the cultural life of English-speaking and other people!

In the field of religion, men of leadership must found religious and ethical systems. Others may follow, but some must establish and lead. In the field of politics the same qualities of originality, courage, and leadership are demanded. Men must dare to do. It required a Washington to found a republic; a Lincoln to preserve it; and a Roosevelt to place it in its proper international setting. It required a Wilson to define the expedient course of the moment, and with the courage of a crusader and the faith of a martyr to found the League of Nations amidst most difficult conditions. Such inspiring leadership should have its opportunity and should receive reward. Too many men and women take the reward of a mediocre existence. Oc-

casionally a man or woman rises superior to the condition of his day and generation and soars like the eagle to great heights of achievement. Mankind follows slowly, but the pace for it has been set and good has been accomplished. Such men and women have made civilization. Mankind is not to be blamed too severely if it does not reach the mark. It would be barren if no mark had been set. And it would be culpable if the aim had been low.

Giving adequate opportunity and reward to those who have exceptional abilities does not mean that the weak and the poor should not have their opportunities. The exceptional, the ordinary, and the weak should not be allowed to profit at the expense of one another. The rewards are sufficient for all, in varying degrees. Certainly everyone should have the opportunity to provide the basic needs of life for himself, food, clothing, and shelter; it is a weakness for all that any should be underclothed, undernourished, and underhoused. The workman, if held to starvation wages, will do his work badly, and the capitalist whose property is invested in the enterprise will feel the pinch even though he experiences no physical discomfort from it. Underdevelopment of any kind on the part of any and all will in time be an economic and a social loss. Men who are always in doubt as to their economic interest cannot lead a happy life, and their families must partake of this disadvantage.

It is, after all, the business of the state to take care of those who are so incapacitated that they cannot look out for themselves. It is also the business of the state to prevent the underdevelopment of mankind. It is better to nip the process in the bud before it gets into the field of charity. Then we must have some interest in the future generations. Children should come from well-nourished parents. They should have certain educational advantages, or they will be seriously handicapped in the race for a livelihood. They should also have medical attention during their form-

ative years. Incompetent and unhealthy parents will mean unhealthy and mentally deficient children.

Nor can we trust to the principle that the fit should survive. This may be a good law for the jungle, but not for civilized society. It leads to war and to war are sent the physically fit, while only women, children, and older men and weaklings are left to civil pursuits. Society must stand the loss of its criminal, insane, and incapacitated. The life of the poor and the unfortunate must be made as pleasant as possible. Charity as a professional matter should not be encouraged. The need of charity should be prevented, but the needs of the weak must be served, and their interests protected. It is only human to do so; it is one of the tests of civilization.

One of the duties of the individual in self-development should be to take proper care of his health. Whatever one's work, his conditions and hours of labor should not be so fatiguing that physical detriment will result. One's work should not occasion exposure which will undermine health. People of sedentary habits should take care to get the proper amount of exercise. People of ill health lose their individual and social effectiveness. Physical vigor is absolutely essential to the man or woman who would succeed in his enterprise. The minister will the more effectively drive his sermon home if he is physically sound. The professor will get and give more from his intellectual life if he is strong rather than anemic. The statesman must have his health. Great crises will weigh heavily on him. Unless he has a large physical reserve, he may break under the strain. Presidents of the United States either must have perfect health or must be so constituted mentally that the issues of the day do not weigh heavily upon them.

A philosophical attitude toward life will relieve much physical and mental suffering. Since much of life is argument, contention, and persuasion, one must have not only the habit of mind which will convince but also the force to

make his point. President Wilson's health gave way at the time his leadership would have counted for most in the United States. He was leading one of the most courageous fights in history. He was criticized from all sides, and felt it necessary to tour the United States in the interest of his great ideal of an ordered world. But the vehicle of the ideal broke under the strain. This remarkable leadership soon became a memory. Nothing could defeat his indomitable spirit. His last message to the Congress of the United States closed with the following words:

> I have not so much laid before you a series of recommendations, gentlemen, as sought to utter a confession of faith, of the faith in which I was bred and which it is my solemn purpose to stand by until my last fighting day. I believe this to be the faith of America, the faith of the future, and of all the victories which await national action in the days to come, whether in America or elsewhere.

Such courage and determination could inspire admiration, even on the part of his enemies. It fortified his friends in the cause to which they were committed. But it could not lead.

One of the first businesses of the citizen is to help provide for the arts and the sciences. These require the services of experts, men who can make special contributions. Men who achieve in these spheres must condemn themselves to long periods of self-exile. They must live in the studio or in the laboratory and must give months and years of painstaking work to the object of their depiction or research. There is a consequent restriction of social activity. But the finished product will be far greater than if the time of the artist or scientist had been divided between his first interest and a number of collateral things. We must recognize that the best thing for society is for some men to renounce social intercourse in favor of research. The scientist may perhaps not vote, he may ignore the ordinary claims of society; but his discoveries may have the potentialities of untold blessings to mankind. Not all the

benefits of life come from civic activities or from the discharge of civic duties. Of parliaments, parties, politicians, issues, and governments there is no end. The world is not, even in this scientific age, too well endowed with great scientific men. This type of non-political individualism has made possible our great scientific and cultural progress.

Each individual owes it to himself and also to society to think things through. The cult of incompetence not only holds the mentally superior down, but it encourages slipshod thinking on the part of the masses. In a democracy, where the people must make final and important decisions, the habits of careful and painstaking thought should be developed by all. The opportunity for the weighing of measures is open to all who are qualified to exercise the privileges of citizenship. It seemed at one time that the ballot in the hands of the people would solve the problems of the democratic state, that the voice of the people must be right and must be wise; but the mistakes of democracy are legion. Reason and rationalism have not as yet found a permanent place in government. The individual can bring to a given task only such information and such powers of intellect as he has. His education and experience, if rich, varied, and practical, are worth much to himself and to society. There is much satisfaction to one who has thought a measure through, even though he has not won at the polls. He maintains his intellectual self-respect. Many people unfortunately do not have the intelligence to challenge the statements of parties and politicians. For others the exercise of the inquiring mind is too arduous and they turn to more pleasant and less exacting forms of entertainment. But the hope of democracy lies in intellectual thoroughness and honesty. It is within the capacity of all to make important moral, political, and social judgments. In what spirit will the decision be made? What will be the contribution of ourselves in making it? Most citizens in a democracy have some mental power. They

can, if they choose, see a difference between right and wrong, between justice and injustice, between wisdom and stupidity, between efficiency and wastefulness, and between truth and error. And their power to deal with these matters will increase with use.

Let us be more specific in applying all this to political life. The good citizen will not be bound by the platform of the party or the pabulum of the politician. He is an objective person. If he is faced with a political issue, he may well consider three things: First, is the measure sound? Unless it is sound in principle, and in the light of the past as well as the needs of the present, one should be on his guard. The scientific character of legislation needs attention. Anything which is unsound in theory will be unworkable in practice. Again, will the measure work? Is it adapted to the conditions of the day? Will it remedy the defects which it is purported to remedy? All measures must be reduced to realizable terms. Finally, is the measure right? Is it just? Surely these are tests which reasonable men and women may profitably apply. But how many take the trouble to do so? Candidates for office may be measured by the same standards. Our democratic society needs the inquiring mind and the vigor of social and political thought. No collective society is ahead of its collective thinking, which in turn is made up of individual thinking. The thinking process leads the way, or the lack of it drives the nation backward.

The individual must also take account of moral values in his work of self-government. It is not all health, science, art, or intellect. This moral development may come through the religious training and discipline of a church which adheres to rules and insists upon their observance. It may come as the result of the study of the purpose and objects of the law. The legal systems of the world have justice as their goal; it is for this purpose that they are set up.

This moral discipline may be the result of family teach-

ing and of home influence. Certainly it can be most effectively provided in the home, where the impression is first made and where it lasts the longest. The school, public or private, may stress the great moral values which have preserved society from destruction. The discipline and the restraints of the soldier bring out moral qualities which inspire a love for the just and a respect for authority. The rigors of ordinary business practice teach that fair play and right dealing are conditions precedent to business success. One may learn his ethics from sad experience. One may be deterred from wrongdoing because of the fear of consequences.

Sometimes people must learn from being punished by society for violations of its codes. Many people have an innate sense of justice, a burning to do the right thing. Others are influenced by the ideals and the lives of worthy men and women. Injustice and wrong are double-edged swords. They do harm to your neighbor, but at the same time encourage him to retaliate against the wrongdoer. One injustice lays the foundation for another. The good life, for the individual and for society, is the moral life. It is not indispensable that all measures should be sound or practical. But it is of the utmost importance that they should be right. Defects of technique and of practice can be remedied. But an injustice can never be fully repaired, no matter how great the reparation or how repentant the wrongdoer.

All writers agree that the basis of individual self-development is education. This is especially true in democracies, where decisions are made by majorities and where the agents of the government are held to a strict accountability. The success of co-operative undertakings, political, social and commercial, must in the final analysis rest upon individualistic foundations. Democracy, taking over the work of the despot, must seek to make its members more intelligent and more responsible through a process of train-

ing we call education. Unless men and women are capable of individual self-improvement, then democracy must adjourn and the clock of the centuries must be turned backward. We have then founded the modern democratic state on sinking sand.

Dr. Henry Suzzalo, one of America's greatest educators, has expressed the situation in the following words: "Civilization may become more kindly and more wise, more considerate and more co-operative, because individual men may be made into better human beings." The business of government is consequently not a simple matter. Administration in a great society has become so complex that only men who have been trained for the task can effectively discharge the multitude of specialized duties. It may be admitted without argument that the value of public judgments depends on the mental processes applied to their determination. The intellectual level of a people will be reflected in their votes and in their political decisions. A cultivated and trained minority will do much to neutralize the impulsive and impressionistic judgments of an ignorant majority, but in the field of administration the problem is serious. Not every one is fitted to undertake administrative tasks.

The irresistible modern trend toward enlightened individualism thus imposes and complicates the political problem confronting mankind. It is a new force affecting basic constitutionalism, a force to which we must give further attention in subsequent chapters.

CHAPTER VI

INDIVIDUALISM AND EDUCATION

The people of the United States have hesitated to adopt any institutions which would violate the fundamental principle of equality before the law. So deep-seated is this reluctance that it would be idle to deny or oppose it, even though one should be convinced that it is wrong. The doctrine of the square deal, of equal rights, of special privileges for none has dominated our political and social thinking. Like all good things, it has been extended to situations where it does not logically apply, and has been used at times by the incompetent and the inefficient to secure their positions in the political and even the administrative services of a democracy. One may be as good as another from a moral standpoint. His voice in settling political questions may be as valuable. But history opposes that view when we consider the work of the world. The qualifications of equality imposed by true democracy are embarrassing to consider, but we must attempt to distinguish them especially as they concern education.

Professor Goodnow made much of the difference between politics and administration in his early works on the science of public administration. It follows from the general principle of equality that the individual must be trained to do the best for himself and for society in leading his private life, that he must be trained to contribute an intelligent share to the collective thought and decisions of the commonwealth, and that many must receive a special training for the growing tasks of government. All citizens should have the opportunity to qualify for any of these places in life. Under our present democratic system social and economic status have little to do with the matter; but intelligence, insight, character, industry, and application have much to do with it. The educational ladder is

now the approach to the economic and the social ladders. Ability and brains *will* be rewarded.

Training for life and for making a living must be institutionalized. The general training of other social institutions and of wide reading will not suffice in a democracy. Yet when education becomes a process we cannot fit all into a common mould. The teacher and the taught would revolt against it. There must be specialized schemes of instruction for those whose special abilities fit them for technical and expert services. The provision of a process of education is not enough. A mere process without a philosophy behind it and provision for various callings and abilities would be like a law on the books which is not enforced. Broad education is the tool of democracy.

In republics like the United States, under a federal system, with great diversities of region, culture, and race, it is impossible to rely upon private education to fit the citizen for his job. Private institutions and foundations have done their tasks well. But we believe in the equality of opportunity, not only for the adult in his social and economic life, but also for the youth who must prepare himself for the future. The government has gone into the business of education for its own interest. The door of opportunity is therefore open to all in some measure, and is open all the way to those who stand to benefit by advanced instruction. It is only through the schools that the political history and the ideals of the nation can be made manifest to the growing youth. It is only in the schools that we can be assured of substantial detachment from narrow political, religious, and class opinion. Moreover, the control of the state over the family, the church, and other institutions is limited to that of preventing a violation of rights of others. These institutions cannot be made the vehicles of training for citizenship. The school system is under the authority of the state, and its organization and curricula may be changed with the needs and demands of the age.

Naturally the most important part of our system of education is the common school. It is where the majority of our citizens begin their schooling and where the majority of those who complete any part of it terminate their instruction. It is therefore in a sense the cradle of democracy. Such training for the duties of citizenship as the masses receive is imparted there; consequently, it is our basic institution of education. More money is annually spent on common school education. More teachers are employed. More administration seems to be necessary. More buildings are used. It is the more substantial work of the state's business in education. Few people will deny the utility of the common school. While appreciative of its importance and its results, there is little need of self-congratulation on its achievement. Now that it is established in every community in the nation, the more intelligent thing is to direct attention toward removing its deficiencies.

The laudation of professional pedagogues no longer interests a public who will pay for education but who insist on something definite in return. It is not my purpose to solve the school problem but merely to direct attention to it. The common schools are in a real sense a reflection of the community life of a section, town, village, or district. Its administration and policies are under the control of local citizens. This of course is as it should be. But the tendency to give community thought first place in the school scheme of things is unfortunate. The student in the local schools, probably remaining there and not attending higher schools, needs more than any other student a vision of things in the state, the nation, and the world. Community institutions must reflect community interests. They will also reflect community prejudices, whims, and narrownesses. Some instruction is needed in national and world affairs and ideas to neutralize the effect of localized teaching. Even the most restricted and self-sufficient of communities stand to gain by admitting thought from afar.

Certain educational practices of standardization hamper elementary education. In the first place, the curriculum is excessively standardized. All students must pass through the same course. All must follow the same subjects. All must conform to the same methods of instruction and to the same methods of discipline. To say that the masses who attend prevent a solution is no answer at all. Why should not the child with technical aptitude receive some elementary school encouragement? Why should not the boy or girl who has a fondness for the social sciences receive more than the small amount of instruction in the common schools?

Then, too, teachers suffer from too much administrative control. They often have to "punch the clock," like factory hands, in entering and leaving school. The lines of control are centered in the principal's and the superintendent's offices. In the profession where the work is the most personal and where the need for discretion is the greatest, we find the least opportunity for individual initiative. Often the teacher who gives vent to her enthusiasm loses caste with the "administration," unless her instruction is in full accord with administrative regulations. Academic appointments are so numerous that they do not have the time to gain careful mastery of lesson material. They must attend institutes and teachers' conventions to hear the retailing of the latest educational methods by highly paid professional pedagogues. Administrative authority has increased, and the importance of vital classroom instruction has been dwarfed.

Teachers are also limited as to method of instruction. Here too the fashion changes. Today the "socialized recitation" and the "problem method" Professor William Bennett Munro of Harvard University, a great teacher and scholar, has called the "Gold-Dust Twins of education." The problem method of instruction is nothing new. It has its advantages and its abuses. It is the refuge of the lazy

and indolent instructor who does not have the energy to master the principles of his subject. Moreover, it may induce the student to waste time attempting to deal with impractical and insoluble problems. The facts of history in regard to a certain point are worth more than all the supposititious problems on the case.

The socialized recitation, also, is the antithesis of individual self-development. Arrested in their attempt to socialize the state, the factors of production, and other matters, the reformers now seek to socialize the methods of instruction. The betterment of the individual is not their objective, but that of his relation to society. Their point of view is not how accurately and how quickly the student may solve his arithmetic problems, but that of the social reactions which surround the business transaction. The substitution of a responsibility to society for that of the individual in one of the most personal relations in the world has thus lifted a large burden from the teacher and likewise from the pupil. Study is no longer arithmetic, reading, writing, and geography, but their social setting. William need not get his sums correctly, but their social significance must become clear to him. Unless Willie gets that, the lesson has failed of its purpose. But what is its social background, social setting, social relationship? It is a matter of scientific inquiry for the pedagogue, and the time spent in the classroom should be given to things which Willie can understand and which he may use as tools for a larger life. Neither of these educational twins can be the Atlas of the educational world.

The question of personnel is also important. Clearly, teachers in schools below the university should have an equal amount of training. The elementary teacher should receive a salary which will appeal to the best minds and which will make possible a legitimate career for those who aspire to elementary school work. Instruction in the common and high schools should be defeminized; admitting

that instruction from both sexes is necessary, something should be done to end the monopoly of the business of education by women. To be sure, the administrative posts should be open to women as well as to men. It is often contended that many men take refuge in university faculties because of its masculine monopoly. This is in some measure true, and the more intelligent woman will be disregarded there and the less intelligent man appointed. But inroads are being made by women in university faculties. The greater tragedy is in the lower levels of our school life. It is not well that the instruction the average American gets should be almost exclusively in the hands of women. Perhaps the invasion by women of the business and industrial fields will release from commerce men who heretofore have regarded school-teaching as undignified, and who have been only moderate successes in business but would be excellent instructors.

The method of training teachers is more than dubious. The high school teacher of today receives a fairly liberal education in spite of the heavy demands made by departments of education before certification is allowed. But all instructors except those in colleges and universities must conform to the dicta of departments and schools of education. These advance the proposition that the pupil and not the subject is to be taught. Therefore, knowledge of the subject is relatively unimportant but knowledge of educational method is all important. The science of pedagogy is the touchstone to the teacher's success! In some states, an additional year is required of high school teachers. Instead of being given to obtaining the master's degree or following higher academic work, this year is devoted to examination of pedagogical method. So deficient are the ordinary departments of instruction that experts in each must be chosen to give the "educational slant!" So far they have invaded the field of the social sciences to bolster up the science of pedagogy. The curriculum must include

"educational" sociology, "educational" psychology, "educational" administration, "educational" civics. The "history" and the "philosophy" of education are also given prominent places in the curriculum. Now other social sciences are willing to concede that a contribution in method and technique can be made, but they feel that the science of pedagogy should seek a content and a substance of its own and should relinquish that taken from the other sciences. Why not invade the natural sciences? Why not courses in "educational" mathematics, chemistry, physics, and biology? Cannot we soon divide all branches of knowledge into the adjectival divisions of "pure" and "educational"? Then, there is the eternal question today as to what is education and what is knowledge. Other departments of knowledge feel keenly the recent seizure of this term and its restrictive use.

It is the training of the common school teacher that most needs reforming. There is no basic reason why her training should be different in essentials from that of the high school teacher. However, in the normal schools and the "teachers colleges," instruction is organized strictly along the lines of teaching practice, and the departments of instruction are merely subsidiary to the department of education. The training there of the grade school teacher consists of from two to three years' instruction beyond the high school. Is the problem so "different" that the grade school teacher must be fitted into a certain mould and that she shall not have the advantages of even the elements of a liberal education? Surely teaching the youth of the land should require as much cultural and liberal training as that of the ordinary business man, clerk, lawyer, or welfare worker. Graduation from a college of liberal arts with a major in the department of her greatest aptitude, with a few well-chosen courses in educational method, would lift the level of grade teaching tremendously and would lift a terrible load from the mind of the prospective teacher.

The higher schools — the colleges and universities — meet certain definite needs. In the first place, the intellectual levels of the country are higher than before and more education is demanded by the masses. In the second place, we must have leadership as well as citizenship. There must be education for both, but the types must be different.

Again, the preliminary work which one picked up during his probationary professional experience must now be learned in the colleges and schools. The office-trained lawyer is becoming a thing of the past. Lawyers prefer to give their time to winning cases rather than to instructing in law. Schools of commerce and business administration are preparing men for even the minor positions in business. The schools of medicine, pharmacy, and dentistry are essential to the public and private health of the people; an apprenticeship in a physician's or dentist's office or in a drug store will not do. The engineering colleges must prepare technicians for our vast technical services, such as railroads, electric power, and mining. More and more we are coming to the point of view that the public servants of the state, both administrative and political, must have scientific training. The development of our present system of education has gone so far that this cannot be denied. We must educate the upper intellectual levels of our citizenry. We must not condemn our ablest young men and women to a life of mediocrity merely because the masses cannot follow them into these higher schools. But there is a more selfish reason. Not to do so would be a great social loss; the enrichment of modern life resulting from the discovery and the dissemination of truth in the schoolroom and the laboratory cannot be measured.

Since education aims to fit the individual for his life in society, the point of view in education is important, especially as regards his civic and social instruction. It is clear that education should be for the purpose of good

citizenship. Political and social facts should be brought to the attention of the student. Political and social doctrines should be discussed, with frank statements of the claims made for and against them. No effort should be made to impress the student unduly.

Of course the age and capacity of the child may be taken into account in introducing him to the social sciences, but on the whole, it is quite proper to begin such instruction early. Man is a political and social animal. The child should therefore receive early instruction in the technique of forming social attitudes. He is forming them all the time in the home. He is born into a condition which he does not understand and must make many preliminary judgments before he orients himself. It is important that they be made, even though subject to constant revision. Why should they not be made in the school? It is of course important to guard against the attitude being made for him rather than by him. Certainly we cannot have any axe to grind. We can, however, give soundness and direction to social thought. It is possible to teach the student that the right should be cultivated and the wrong avoided, that justice should be established and injustice dethroned, that truth should be found and error driven from the earth. It is possible to point out the dangers of selfishness and of indifference to the rights of others. It is possible to encourage an objective examination of all facts connected with controversial questions. To examine social facts and theories only from a particular point of view is to violate the ethics of the teaching profession. No religion, class, or social or economic group has a monopoly of truth. If a student belongs to one class of society, it is well that he know the claims of the other side. The true civic instruction has as its object the removal of social bias and prejudice.

In the United States we are compelled to look upon the school as the means of teaching the lessons of American

nationality. With immigrants from every land and speaking every tongue, it is a matter of elemental self-preservation to expect the schools to teach our freedom, our principles of equality and liberty, and the existence and meaning of our institutions. They must impress the student with our outlook, our language, our culture, and our institutions. But the institutions as taught should be representative American ones—not Protestant, Catholic, Republican, Democratic, capitalistic, socialistic, employer, labor institutions *per se*.

The United States is broad in its territory, its peoples, and its institutions. Anyone who essays to interpret its institutions takes upon himself a big task. The very bigness of America dictates a tolerance of another's point of view which has so distinguished the country. What has been decided as law may be said to be settled. The student must in his later life decide between candidates, policies, parties, and measures. He must be able to judge the truth and the falsity of their rival representations. The spirit of friendly criticism should be encouraged. The imperfections of our system of government should either be pointed out, or its imperfections should be enumerated alongside its merits. But the approach in civic education should be friendly to our institutions. We can improve only as we understand, and we can understand only as we appreciate. We do not seek to destroy. Certainly a destructive philosophy has no place in any scheme of civic instruction.

The approach to these questions should be a noble and inspiring one. The great events of history and the great men and their achievements should be called upon to appeal to the civic sense of the youth. If his civic sense is too local, too direct, and too specialized, it will be altogether ineffective. Such instruction does not do full justice to the dignity of one's citizenship and to the full measure of his civic personality. It fails to emphasize spiritual values.

It does little good to dwell on the things which are obvious to the child, daily parts of his little world of experience. He does not need to have his vision circumscribed by the little circle of his community. He needs emancipation from it.

This elementary civics instruction furnishes the only opportunity for most of the American people to get their initial orientation in great social questions. If it is limited to the civics of the ash-can and the curbstone, we shall have ash-can and curbstone thinking. If we rise to the heights of national and international principles and ideals, we will get social thinking on the same plane. A "laboratory" study of the "problems" of the community, with detailed statements of the functions of the policeman, the tax-collector, the garbage collector, and the street sweeper will not be conducive to an understanding of civic responsibilities or to a development of the civic sense. Local government details perhaps should be taught, but they do not inspire. The basic principles of government and of society and the main facts of international life may be pointed out to better advantage. To say these things are beyond the mind of the child is idle. How vital to the child are the lessons of geography when he learns of other regions, other countries, and other peoples! And how barren are the humdrum facts which follow the student in his routine of existence! Our world unity, economy, and order make these matters as vital to the child as the municipal ordinances which regulate traffic in his town. The great fundamentals of national and international government and society should be the starting-point. This local-government approach in the schools was attempted in England but failed. The method has a certain vogue in this country, but a definite reaction against it has set in. I do not deny it a place in our scheme of things, but I do contend that it should not have the primary emphasis. The tendency to emphasize established principles and ideals of political and

social conduct rather than community practices, and to look up, out, and on, rather than down and at one's feet, will remedy this situation.

While the civic training of the youth should have a definite civic end, we should not forget the individual side which needs to be developed. Regimentation of belief, of point of view, and of political doctrine is not a good thing. It is better to encourage freedom and diversity in thinking than uniformity based on unintelligent acquiescence with current social teaching. No school of political and social opinion should prevail. The basic facts should be given and an orientation which will help in the formation of judgments. The youth should bring his critical and reasoning faculties to bear on the problem.

The idea of national civic discipline must not displace the vigor of political thought which the schools should encourage. Our institutions have proved themselves sufficiently stable and our government sufficiently secure to make due allowance for the necessary individual and mental discipline which a consideration of such questions will provoke. The policies of the government should be explained. But they are in the nature of policies, and are subject to mutation. No human institution is so perfect that it cannot be remedied by the present or the future. We must revere the past, but the government of the day must not be directed from the graveyard.

The schools are the legitimate targets of all people who have special policies to teach. The pacifists encourage a peace day. The army and navy people urge a national defense day. The bankers advocate a thrift day. Temperance supporters urge that the detrimental effects of alcohol be taught. These civic lessons may have a legitimate place in the life of the school. But their sphere should be limited, and the purpose of the people who secure their observance should be an unselfish one. Time should be left for the normal functions of the school.

The civic discipline in the schools has in some cases taught its lesson too well. The lessons of patriotism, the deification of the state, and the view that the government can do no wrong will lead straight to the desert. It is all the more dangerous today for the student to think ill of his neighbors across the border or over the sea. A critical public opinion is the best possible safeguard against the pretensions and ambitions of states and governments. A system of education which will develop the war mind and the idea of the world mission will make war inevitable, and the system of education will be to blame.

Education is therefore the gateway to the higher life, and to the best individual self-development. The door should be open to all, to the extent of each one's ability to benefit by it. In certain cases the students and teachers should be released from the administrative and methodological straitjacket in which they now find themselves, in the interest of greater freedom and the development of personality. This program involves the methods of the classroom, the training of the teacher, and the point of view of social instruction. Let us have the release of the vital energies of the teacher and the student, now limited and repressed by submission to pedagogical form! Then the greatest individual development will follow, together with a quickening of the individual's spiritual and civic life.

Improper, anarchic individualism may thus be curbed and integrated by intelligent, purposeful education, and a politics more effectively designed to maintain a peaceful world will be the result.

CHAPTER VII

AMERICAN INDIVIDUALISM

The United States is peculiarly the home of individualism, and the topic of American individualism deserves further consideration from us. It is a special kind of individualism which has developed during the three centuries of our history to the present time. In no country have the conditions been so favorable for its development; nowhere has the form of government been framed so completely in answer to its demands; in no country has the principle received so wide an application. It is the common practice of writers on American individualism to cite the statements of the authorities which are declaratory of this principle. It is rather my purpose to analyze the arguments set forth by Herbert Hoover in his excellent little volume, *American Individualism.* He includes the essential elements of individualism as a principle, without the many burdensome and tiresome facts and events which are usually cited to support it.

There are, according to Mr. Hoover, several great social philosophies struggling in the world for mastery. They include communism, socialism, syndicalism, capitalism, autocracy of several kinds, European individualism with its emphasis on castes and classes, and the individualism of America. Both at home and abroad, there are people who insist that our individualism has seen its day and must be abandoned for a more effective social scheme. The unguarded use of words and phrases, however, must not blind us to the merits of our own system and to the deficiencies of the others. After seven years of war activity with its "economic degeneration," "social disintegration," and "political dislocation," Mr. Hoover emerged, still an "unashamed individualist."

Individualism run riot would lead to disaster, inequali-

ties, injustice, tyrannies, and dominations; but American individualism has been tempered with a "firm and fixed ideal," "equality of opportunity." American individualism springs from something higher and more enduring than the other contending social forces. To quote Mr. Hoover, it "springs from the one source of human progress—that each individual shall be given the chance and stimulation for development of the best with which he has been endowed in heart and mind; it is the sole source of progress." The distinguishing feature of this, our leading social philosophy, he thus describes:

> Our individualism differs from all others because it embraces these great ideals: that while we build our society upon the attainment of the individual, we shall safeguard to every individual an equality of opportunity to take that position in the community to which his intelligence, character, ability, and ambition, entitle him; that we keep the social solution free from frozen strata of classes; that we shall stimulate effort of each individual to achievement; that through an enlarging sense of responsibility and understanding we shall assist him to this attainment; while he in turn must stand up to the emery wheel of competition.

A. *The philosophic justification.* — Mr. Hoover first rests the rightness of American individualism on philosophic grounds. Intelligence, courage, character, and the divine spark of the human soul lie, not in agreements, organizations, institutions, masses, and groups, but in the individual mind and heart. They are the peculiar property of the individual. Production of mind and hand rests on the impulses of the individual. Inherited instincts, accumulated through the centuries, affect the individual differently. The selfish ones must be restrained, for unintelligent and unchecked self-interest leads to the wilderness. But those of altruistic character and constructive purpose must be encouraged. The most potent forces in society are its ideals. But no economic or social system will live if founded only on altruism. We cannot abandon self-inter-

est as the motive-force to leadership and production. All breeds of socialism fall down by insisting on altruism alone. Russia and the nationalization of certain industries in America during the war prove it. The economic stimulation of each member cannot be eliminated for a bureaucracy of the entire population. Nor does autocracy, whether of class government or capitalism, with its assumed corner on the good things of life, on abilities, on divine attributes, and on the power to rule, represent in any degree the spiritual side of American individualism.

The right to rise from a lower condition to a higher one is a part of our philosophy. The failure of Germany, and the seekers in America for economic domination give abundant evidence of this fact. Government cannot make men equal in ability, character, intelligence, and ambition. All it can do is assure to the individual liberty, justice, intellectual welfare, equality of opportunity, and stimulation to service. But individualism must be preserved against stratification. It is here that the social moulds are made and that the progress upward is arrested. The American pioneers in individualism were not rewarded with titles of nobility which are inheritable. The positions held by them are open to the men who had the most modest beginnings. Indeed, this has been our history. The desire to create something, to achieve, is the "great urge of the constructive instinct of mankind." Society must preserve it through the guaranties of liberty and stimulation to achievement. Moreover, the production of the things of this earth, and the development of the things of the spirit must have renewals from the mass of mankind. They can come only through leadership, which is a quality of the individual.

B. *Spiritual grounds.*—Social and economic systems must be inspired by things of the spirit. Liberty and production are not the sole objectives of individualism: it is connected with the inspiration of the soul. "Spirituality,"

as Mr. Hoover further says, "with its faith, its hope, its charity, can be increased by each individual's own effort. And in proportion as each individual increases his own store of spirituality, in that proportion increases the idealism of democracy." For ages the theory prevailed that the few could be divinely inspired, with the resultant belief in special religious dispensations. Every human being partakes of the divine spark. In response to this spark many, to order their own faith, left the old countries for the untried American shores. "Our diversified religious faiths are the apotheosis of spiritual individualism."

Many voluntary organizations for idealistic and welfare purposes are founded on the desire to help others and to express one's best self. But to help others one must have something to give, something to contribute, an ability to serve. The rising vision of service is not merely a collective effort—it is deeply rooted in the human heart. The inspiration to serve is of the spirit. Its effectiveness will rest on one's individual capacity to serve. In war time all join in concerted action for the achievement of the common purpose. The disillusionments which come to the individual from his strong belief in the effectiveness of group action cause him to pause and to lose faith. Not all progress of the soul is in the mass, the crowd, the people, or even the congregation. Religion is a very personal thing; the individual is the keystone of the spiritual arch.

C. *The economic argument.*—The business of government is in part to increase comforts and better the standards of living. These things must belong to all—not to a special class. Economic development has brought about education, housing, clothing, and food for all. These things cost money. We have them today in greater quantity and quality than ever before. To increase the present relatively high standard there must be "greater invention, greater elimination of waste, greater production and better distribution of commodities and services, for by in-

creasing their ratio to our numbers and dividing them justly we each will have more of them." While the value of the impulse to production is not denied, there is great dissension over individual and group shares of luxuries and comforts. In the United States it must be over luxuries and comforts, for we all have the necessities of life and much more besides. All the inventions of the last century, beginning as luxuries, have come within easy reach of the entire population. The surplus which is to be divided is not so great after expenses have been met and taxes paid. From the profit, something should be set aside as a reward for invention, skill, leadership, and effort. Not to do so would stifle one of the fundamental impulses of man. In Russia, the primary self-interest impulse of the individual to produce has been eliminated by the application of social theories. The experiment, while a failure, is a necessary lesson. Civilization makes progress, even through the discovery of abysses.

But individualism is not merely accumulation, possession, and the holding of property. It is this in part, but it is economic merely in spots. We have reviewed the spiritual and philosophic foundations. Indeed, they may be said to have the larger appeal. Human rights in America have always preceded property rights. The destruction of slavery and of the liquor business are proofs. Property is no longer regarded as an end in itself but as a means to an end. In our country with its universal suffrage and with the removal of property qualifications for voting, there is nothing to fear from a tyranny of the so-called propertied classes. The state and the government cannot get into the hands of a group which may use its powers for the purpose of their own interests alone and as an instrument of oppressing the masses. Capital today is subject to definite checks.

Individual ownership is playing a diminishing rôle in American economic life. The mobile capital of the country

is tied up in the business of associations, such as banks, insurance companies, investment companies, and corporations. These large concerns are based on the small savings of many. The directorate of such co-operative concerns, acting for the whole, must feel a personal responsibility for the security of the funds of each investor. The users of the products of capital are the people. Luxuries form a small part of the things which are for sale. The purchasing power of the workingman is greater than the combined power of the capitalistic class. This is a restraining influence on the manufacturer. While business organization is today becoming more and more co-operative, the individual element is not lost. It is, indeed, "the initiative of self-interest blended with a sense of service." In all such organizations, each individual seeks to get more for his services or products, to buy from others for less, or to make his income the more certain. As proof of this there are the many organizations of recent years for community service and also for economic betterment. These organizations include all classes of our society. The individual, through these groups, based on self-expression and economic advantage, would become a leader. Their service character does not suffer by reason of their economic objective.

The very complexity of our political and economic life requires operation on a large scale. The day of simplicity is past. All the more reason, then, for preserving the legitimate rights of the individual, for making possible the development of an able and inspiring leadership, when there are so many to lead, so many who seek to follow.

D. *The political basis.*—Democracy, says Mr. Hoover, is merely the vehicle of individualism. "Democracy arises out of individualism and prospers through it alone." All over the world there is a questioning of the functioning of governments. Two lines of thought followed the war. One believed that all regulation is a sin; the other believed

that regulation by the government was the great cure-all. The war required the co-ordination of effort and the invasion of the legitimate sphere of individualism. The unequal war division of responsibilities, burdens, and sacrifices has caused much trouble. But war, being destruction, submerges the individual. Peace must enthrone him.

The government of the United States has gone farther than most governments in assuring the good things of political and social life to its citizens and in restraining invasions of their rights. These achievements lie chiefly in the domain of liberty, order, education, and moral effort. Economic questions are not so simple. The growth of industry, its regulation by governments, and the increasing taxing power of the state have made the economic life of a people depend on its government. Individualism is today at the mercy of governments. The power of regulation has been extended to prevent consolidations in industry which would build up an economic domination, thus killing all initiative. To do away with the dangers of a financial autocracy, governments regulated public utilities and forbade combinations in restraint of trade. Two things must be preserved—equality of opportunity and the initiative of the people. The two objectives are thus strikingly described in the treatise we are employing:

> To curb the forces in business which would destroy equality of opportunity and yet maintain the initiative and creative faculties of our people are the twin objects we must attain. To preserve the former we must regulate that type of activity that would dominate. To preserve the latter, the government must keep out of production and distribution of commodities and services. This is the deadline between our system and socialism. Regulation to prevent domination and unfair practices, yet preserving rightful initiative, are in keeping with our social foundations. Nationalization of industry or business is their negation.

In closing his argument, Mr. Hoover declares that America does not need a way out, but a way forward.

Individualism has been the primary force in our civilization for three centuries. It has been our political, economic, and spiritual urge. The call of the American frontier was answered by the individual. But there are other frontiers than geographical ones. There will always be some great thing to conquer as long as men think, will, and plan. Men fight *en masse,* but they do not think in this manner. Individualism is no half-way system between autocracy and socialism; it is an integral part of our national character, which rests on the foundations of an equal opportunity and a fair chance. No other social system affords so much!

No aspect of our private or public life today is more important than modern individualism. Its significance today has occasioned a rather complete discussion of its doctrines, its limits, its claims, its chief benefits, and the special type of individualism which has come to prevail in America. It is dangerous to generalize, but the following propositions are submitted as a brief summary of what has gone before:

1. While the natural rights of individualism of Hobbes and Locke have been used effectively in founding new states and governments, the individualism of Spencer and Mill, delimiting the province of the state, is more in keeping with the political thought of today.

2. The old doctrine of laissez faire or unlimited competition has had to yield to a better type of individualism.

3. Anarchism, which would destroy all forms of government or authority based on force, is an extreme view of individualism which deserves discussion only as a theory, as a precipice to avoid.

4. Individualism may make the legitimate claim of being the guaranty of the rights of conscience, of propertied interests, of related social institutions, of petition and expression, of minorities, of individual liberty, and of

equality before the law. These rights deserve protection, but they cannot be exercised in such a way as to threaten the existence of the state.

5. The highest form of individualism is that of self-development through the care of health, the exercise of the mind, the development of the arts and sciences, and through education.

6. The principle of the equality of opportunity should be applied to all; but the persons of exceptional ability should be rewarded according to their superior abilities, their higher intelligence, their greater skill, or their greater industry.

7. Those weak through no fault of their own should have the protection of society and of the state. The strong and the great do not deserve to grow fat at the expense of the weak. Civilized society assumes the burden of its weak peoples and makes their life as pleasant and as useful as possible.

8. Our system of education should contribute to the greatest development of the individual. To this end, there may well be thorough reforms as to administration, curricula, systems of control, training of teachers, and point of view, in the direction of releasing teacher and pupil from their present intellectual straitjacket and admitting them to a high plane of intellectual freedom.

9. American individualism, resting on philosophic, spiritual, economic, and political foundations, would first restrain financial autocracy from preventing an equality of opportunity, but would at the same time leave ample scope for individual initiative.

CHAPTER VIII

COLLECTIVISM

Over against individualism in modern life is collectivism. Collectivism is confused by a maze of parties, programs, platforms, doctrines, and creeds. In considering it we must chart our course and indicate the limits of our inquiry. It is our purpose to discuss collectivism as a movement of society, as an ideal, and as a spirit. This takes us into a discussion of its concrete manifestations, but only for the purpose of contributing to the synthesis of them all. For a synthesis is what the collectivist needs. His philosophy is shot through with divided counsels, divided doctrines, and divided purposes. Many of the organizations professing to high place under its banner have a greater grievance against a neighboring collectivist organization of a slightly different shade of opinion than against the rankest individualist. Many of them thrive on hatred one for the other and seem to enjoy unlimited competition in rancor, violence, and martyrdom. Living under the profession of a social sense and devoted to the spirit of the community against that of the individual, they become the very antithesis of the doctrines they preach and form perhaps the most uncompromising and unsocial groups in the world. It is from this abuse that the ideal of collectivism should be rescued.

The leading collectivist doctrine is today called socialism. It is subject to many diversities of program and party. Another manifestation is syndicalism. Still another is guild socialism. Then there is a host of other minor varieties. Not all of these have a philosophy based on the power of the state. Indeed, some of them would limit this severely. But they all seek to benefit the many, and to tear down the so-called special rights and privileges of the few. Moreover, they have as their objective the dethronement

of the individual and his rights in the present scheme of things.

The collectivist movement is the opposite of individualism. It is in this sense that the doctrine has received such little unity and clarification as it has today. Collectivism also represents a certain doctrine of state action. But we shall here give attention to its professions as to the active function of the state and the positive mission of government as an agent for the people against individuals and groups, within and without.

The different schools of socialism vary as much as the motives of their proponents. There are a few advocates who are actuated by idealism and have nothing to benefit personally by a new social order. They are usually men of wealth and urge the establishment of the socialist state as a means of escape from present unsatisfactory conditions. While these are perhaps the most genuine and disinterested of socialists, we rarely find in their statements the real essence of socialist theory. Nor do they plan to part with their wealth until the co-operative state is achieved. Some feel that the injustices of the present order can best be evened up by the socialist commonwealth, and that any experiment in socialism would result in no more injustice than now prevails. Some would direct their shafts at the system of land ownership and would vest in the state the title to all land as the common holder for society. Others believe that production is the important thing, and that the state should assume complete control of the entire economic system, the means and factors of production and the general industrial scheme. Still others would limit their program to the nationalization of the natural resources, such as mines, forests, oil fields, and fisheries. Other socialists would have the state own and operate all public utilities. Still others feel that socialism should invade our present social order to rescue it from its natural condition of selfishness and to restore good will.

The powers of government must be used, if need be, to save the individual from himself and for society. All systems of socialism converge to the single point or philosophy so common among the Greeks, that of the subordination of the individual to the state.

A. *The socialism of Karl Marx.*—The classic statement of modern socialist doctrine comes from Karl Marx. We cannot discuss the life of this interesting personality and can refer only briefly to his doctrines. They are found, in the main, in his voluminous work entitled *Capital.* Marx develops, first, an economic theory which he calls "surplus value." He argues that value must rest in labor. The wealth of the capitalist classes is found in commodities, which, while having a value according to their utility, also have a value dependent on the amount for which they can be exchanged. While market conditions and fluctuations may affect their price, their real value and their exchange value is in fact determined by the amount of labor expended in their production. Value, in order to be produced, must have the aid of implements and machinery. These aids have, during the age of invention, come into the hands of the capitalist group. With the machinery and the raw materials in his possession, the capitalist may purchase the labor of the worker at a low rate and sell its products for their exchange value. The difference between the cost of labor and maintenance and the price received is called by Marx "surplus value." The capitalist pockets the surplus value, and will continue to do so as long as the worker has no ownership of the means of production or control over them.

Closely akin to this theory was the view that capitalists as individuals would become fewer and fewer, capitalist organizations ever larger and more powerful. The reduction of the number of capitalist persons and organizations, and the growth and combination of the remaining ones, would release men to the poorer classes. Competition

would be stifled by trusts. The same policy of the centralization of capital would be extended to lands. These things would the more effectively direct attention to the injustice of the capitalist society, and would stir the suffering classes to revolt. The view is neatly expressed in the common saying that "the rich are becoming richer and the poor are becoming poorer."

This antagonism will lead naturally to war between these irreconcilable classes. Their interests are so different that no compromise is possible. It will be a war between the "haves" and the "have-nots." The capitalists, formerly standing together, will be weakened by discord from within. The lower classes will learn the lesson of acting together. The movement will begin locally, and will spread from local government units to the entire state. By the same process of pressure and accretion, the movement will involve the world. The international co-operation of the socialists will bring the victory, and the socialist commonwealth will be established. Property and money will of course have a common ownership. Stratifications of society will no longer exist, and the good life will be led by all. So runs the doctrine.

The crowning principle of Marx's socialistic theory is the materialistic interpretation of history. Other writers sought to explain economic motives and influences as collateral developments which were subordinate to political and historical events. Marx strikes at the root of all this discussion and boldly assigns economic causes to the events of history. In this contention, he is urged on by a painful logic which has been milk and honey to the collectivist, wormwood and gall to the individualist.

While political organization has for a long time protected the interests of the few who have profited from the labor of the many, yet it is one of the steps in the evolution of society. The political organization takes on the form of the economic life which controls it. When the proletariat

come into power, there will be a change in control, and therefore a form of society adapted to the needs of all. Society changes. The capitalist is having his day, but it will pass. Revolutions have improved the condition of society, even though slowly. The French Revolution, especially, was a bourgeois movement directed against the feudalism of the day. The next step in the evolutionary stage will be the revolution of the workers against the bourgeoisie. The very methods and interests of the capitalist class will bring on the revolution and establish the socialist commonwealth. Thus saith the Marxian philosophy.

B. *The aims and ideals of socialism.*—What does socialism propose to do? From the philosophy of Marx, we get some idea of the causes of socialism and the course it will take to accomplish its ends. But this is chiefly historic and causal. The different programs vary according to country, conditions, and points of view. But there are a few canons of socialism which may be said to be true of all the more important systems. Certainly co-operative effort of a wholesale kind is championed. There need be no limits to the extent of such collective effort, for good will shall prevail, and there will be no deterrent due to economic rivalry. Moreover, competition, the life of trade under the capitalist system, will be destroyed. Commerce, trade, and exchange will therefore be released from their private and selfish character and will be made to serve society. There will be enough for all and more, for all will share alike. With the abolition of the classes of society, there will be an equality in matters of politics and commerce. The state will become the owner of all land. In the purely industrial and economic sphere, the instrument and means of production will be under its absolute ownership and control. Its professions of the elimination of injustices and the substitution of equality, justice, and good will appeal to all who have a spark of humanity in their

souls. The question as to whether these ideals and aims will achieve the results they intend is emphatically denied by many.

What, then, is socialism? It defies definition. Bertrand Russell, in his *Proposed Roads to Freedom,* declares that "we shall come nearest to the essence of socialism by defining it as the advocacy of communal ownership of land and capital." He emphasizes, therefore, the destruction of private property as an institution. McKechnie, in *The State and the Individual,* states that the purposes of socialism may be reduced to two heads: "the attempt to effect an approximation, at any rate, to material equality by the abolition of or limitation of private property; and an increase of government intervention." Both agree on the question of property. McKechnie mentions also the sphere of the state.

These considerations bring one fact into full relief: The state must be supreme. It is pitted against the individual. While individualism seeks release from the interference of the state, and to secure such economic returns as one's ability will permit, socialism would provide state intervention and would transform the capital of the preferred classes into the capital of society. It is the antithesis of individualism, and, in its extreme form, is as hopeless a solution as is the system of laissez faire.

C. *An appraisal of socialism.*—We have given some attention to the claims of socialism. A system which pretends to be a cure-all for the ills of society must be examined closely before it can be espoused or substituted for the order of today. Jefferson expressed a profound truth in the Declaration of Independence when he declared that people were long-suffering and were content to endure old evils which are endurable rather than divest themselves of the forms to which they have been accustomed. What is true of a given political community is also true of civil society in general. We now live under a social system

which affords a fair degree of security, substantial if not absolute justice, and a certain amount of material comfort and economic prosperity. Since these new proposals are widely made, we must subject them to the acid test of fact.

The first serious indictment against socialism as a successful social system is its division of doctrines and the unbridled rivalry of its groups. Preaching a doctrine of co-operation and good will, they are often the least co-operative people in the world. They have been divided for years in bitter fratricidal contests. They have nursed grievances against each other. Each group, intolerant of the individualist, is still more intolerant of every other. When the social revolution comes, who will come into power? Which group will lead the fight against the bourgeoisie and also against the other groups? Failure to co-operate before the great upheaval means failure to agree during the conflict. The socialist doctrine and the socialist movement are shot through with the principle and the practice of separatism. Concerning the ambitions of each group, Mr. W. J. Ghent, formerly secretary of the Socialist party in America, has said:

> Each revolutionary group fervently believes itself to be the chosen instrument of the revolution. To each of these groups the dictatorship of the proletariat means the domination of the rest of the community by itself. Whatever the tumultuous play of forces on the Great Day, however fierce and protracted the strife, it is one's own group that is seen emerging out of the welter into power. And with one's own group at the helm, it is upon oneself that the honor of high place—if not the highest—seems certain to fall. A marshal's baton was no more vivid an anticipation to the soldier of Napoleon's than a commissar's badge to a revolutionary private or Lenin's sceptre to a revolutionary leader.

In the second place, socialism proposes an impossible and unworkable scheme of economic control by the state. All the economic interests of individuals would, upon the establishment of the socialist commonwealth, be transferred to the state. It is obvious that a government could

assume this vast direction and ownership of its economic life only after a long and severe tutelage in the business of what is today called private management. But the problem is made still more complicated and impossible by the proposed transfer of the economic interests of many organizations, groups, associations, corporations, societies, and companies to the absolute control of the state. So complex is our modern economic life and so varied are its manifestations, that no single force, not even the state, can assume its control forthwith. The proposal is so unworkable that many socialists recognize its inapplicability to any scheme of society which in any manner approximates our own. If socialism is to succeed the present régime, it must take some account of what has gone before. Private business has for centuries trained us in the business of making a profit. Government has for the same length of time trained us in the business of maintaining order, without thinking of showing a profit. All these economic groups, divisions, organizations, and consolidations would under socialism be displaced by the state. Can the business structure of the present, involving as it does the co-operative interest of all members of society under private control, be so suddenly dislocated by a government in no sense prepared to embrace the task? Russia is the only place where it has been tried. Her record has been sorry enough, and she was early compelled to yield to the basic claims of economic interests.

Our conclusion must be that there can be no successful regimentation of economic interests by the state until it has been at the business for thousands of years. Could economic interests administer governments and determine policies with the same effectiveness as the trained representative and governing classes? Modern civilization is in a sense based on economic groupings, with many unifications and many diversities. Politics and economics are supplementary, not identical. This is the mistake the col-

lectivists are ever prone to make. Functionally the two are as opposite as the poles. To govern is one thing; to make money is another. To combine them would not only establish a tyranny but would make a combination which could neither govern nor earn. The state may direct and supervise its individuals and associations in their economic life. It cannot become the economic life.

Socialism fails to take into account the operation of economic laws. With the state in control, it could not help but deal with economic matters according to artificial and unnatural means, as is the habit of governments. The ownership and regulation of everything by the state requires a new science of economics which the socialists as yet have not provided. They have attempted to engraft the state system on the economic system, to consolidate political science with political economy. The existing principles of economics have been deduced from centuries of practice in private enterprise. What equally matured system do the socialists propose? What assurance have we that it will work?

Herbert Spencer observed that socialism, once obtained and established, would not be worth while. The race would not be worth the effort. Indeed, according to Spencer, socialism would be a dead loss. The individual as a member of the community would be the slave of the collective society known as the community. Individualism, under the socialist commonwealth, would be reduced to slavery.

Like extreme individualism, socialism also lacks a sense of balance. It assumes that society is all and the individual nothing; that the collective will must govern and the individual will has no rights in society; that the state can be enthroned and the individual annihilated. Basic and material invasion of the rights of individuals will reflect its influence on collective society. Common sense tells us so. Society and the state must partake of both individualism and collectivism.

Perhaps the greatest indictment of socialism is its abandonment within recent years of its advocacy of orderly processes, and its making common cause with those who would strike at the vitals of the state. Many people, admiring its position at one time as an advanced party of protest with sane methods, cannot view the prospect of its coming into power with anything but alarm if its record of the last decade is any indication of what its future course will be.

The American socialist movement, for example, was before the Great War a healthy influence in American politics. It championed a number of measures initially which later were taken up by the greater parties and put into operation. Direct actionists, interested positively in sabotage, destruction, plotting, and sedition, and negatively following a policy of ignoring political action except with positive resistance, found little place in the party scheme of things. The socialism of that time was at least constructive. It had a system of ethics. Many high-minded men gave it their support. Socialism, to its adherents, was not a system of tyranny but only the next stage in the orderly march of civilization. The class war which was prophesied was merely the retirement of one class to a level which would be comfortable enough. No direct measures were to be taken against the capitalist. He was mistaken, but he had his right to live, work, and vote. Socialism at the time also meant a certain internationalism, but clearly not an anti-nationalism. It also meant that all could participate in the business of voting. To the moderate socialists, the plan, as explained by Liebknecht, was not to establish the dictatorship of the proletariat but to suppress the dictatorship of the bourgeoisie. The absolute mastery of the power to rule by the laboring class was rejected as a part of their philosophy. This class could make progress only as it made common cause with humanity. The methods of the socialist victory were thus described by Ghent:

The bourgeois state was not to be overthrown and abolished; it was to be conquered at the polls and gradually transformed into a *social* state, functioning for the greatest good of the greatest number. Socialism did not mean communism; it meant the fullest individualism consistent with the common welfare; and on few points did Socialist exegetics dwell with greater elaboration and emphasis.

Many people not collectivists, or at least not so in the sense that socialism implies, would have only admiration for the moderation and the sense of balance of a party based on the foregoing principles, even though they might not agree with its tenets. Time will not permit an account of the course of the American Socialist party during the war. It is clearly set forth in Ghent's admirable book, *The Reds Bring Reaction.* Before America entered the war, the party became an adherent of neutrality and therefore of Germanism. Following our entry into the war, having failed in its common cause with the German interests, the party became anti-American and resisted actively measures for common defense against Germany. As the war progressed, the party was swept into the arms of Bolshevism, and became the American proponents of the Russian philosophy—a scheme as different from the original American socialist doctrine as day is from night. It not only advocated Russian recognition but urged the principles of the Bolshevist revolution.

CHAPTER IX

FORMS OF ADVANCED COLLECTIVISM

Other current expressions of collectivism may well be dealt with in this separate chapter.

Syndicalism, while mainly a protest against political socialism, makes common cause with socialism in its view of capital, its substitution of community ownership and control for private ownership and control, and its insistence upon the class war. In one sense, the syndicalists are logical socialists who are working at the game. But in certain fundamental propositions, the two systems differ. The syndicalist is interested not only in securing adequate rewards for the worker but also in the control of industry by the producer. The interests of the consumer receive scant notice in his philosophy. The political activities which the socialist relies upon are thrust aside for industrial activities. The political parliament, which the average socialist hopes to capture, is discarded for an authority which would be placed in the hands of the trade unions. Socialism errs, he contends, in regarding society as made up chiefly of consumers. The workers, who are the real producers, must have industrial control. The state must disappear, and such state functions as are to be retained should be assumed by the trade unions or by larger groups of workers.

The syndicalist makes war on the state. Results, he declares, would be the same under either capitalist domination or socialistic control. The fate of the worker is intolerable in one and is neglected in the other. No compromise can be made with elements which are not in accord with the idea of the workers' or the producers' control. There will be democracy in industry for those who share in the work of production. The worker will not only be free, but his voice in the management of the business will

inspire a pride in his work. The different industries would determine and carry out their own policies. The determination of conflicts between groups is not arranged for. While opposed to the defense measures of the state, syndicalist methods of action are also direct, without the organization and the sanction which accompany the exercise of state power.

From this crude philosophy the syndicalist has evolved a plan of action much more definite than his theory. The class war which is to come he considers sufficient justification for the use of the more radical weapons of the industrial conflict. He insists upon the use of the union label and in many cases on the boycott. These are moderate weapons, except when boycotting becomes too widespread. The syndicalist also makes use of sabotage, which means turning out of an inferior product, or causing damage to machinery or material. It is a sort of half-way measure, which may culminate in a strike.

Sabotage signifies any interference with the production or the sale of articles short of stopping business operations. The injunctions of the employer can be carried out so literally, so slowly, or so badly that business will practically stand still. The strongest weapon of the syndicalist is the strike. While his philosophy may be muddled, he has chosen weapons which effectively aid his invasions of the economic sphere. The strike helps in the evolution of the doctrine and aids in preparing for the great conflict. The strike is advocated for all purposes. It may result in a better wage or more favorable working conditions. If it achieves this result, it may have a positive value for the moment. If it does not achieve the immediate purpose, it does give the working class a certain consciousness and solidarity. But all strikes tend to bring on the day when the class war shall become an open conflict and the worker shall come into his own. The smaller strikes lead to the great General Strike, when all work shall cease, when

capitalism shall be dethroned, and the complete control of the industrial and economic sphere shall be assumed by the producing classes.

Syndicalism, making war against the state and all forms of political authority, and enthroning the producer at the expense of all other classes of society, is regarded as a novelty rather than a danger. Its philosophy is unattainable, and its methods, by their very bluntness, may be restrained by the positive action of the state. The case of guild socialism is quite different. It proposes a compromise between the state and the producer, and a settlement of outstanding issues in a manner which can only challenge the interest and the attention of those who believe the *civitas* essential to the *societas*. The guild socialist admits that the power of the state is here, and that it has substantially increased in recent years. Nevertheless he fears its growing power. Rather than destroy it, he would define and limit its sphere. There is room for both the state and the producer. He would avoid the anarchistic and revolutionary methods of other forms of protest and settle the matter, if possible, by rational compromise. In the sphere of production, each industry is to form a national unit, organized into a national guild composed of the factories of that particular industry. While each factory would be autonomous as regards its own problems and administration, matters of general concern would be handled by the national guild. The different national guilds would be organized into the Guild Congress, which could legislate finally for all matters which directly concern the producers and which will reconcile conflicts between the different national guilds.

The state is to represent the consumers through the political parliament. The state is to own the means of production under the same theory of trusteeship, for which a rent or tax shall be paid to the state. Neither the producers nor the consumers can ignore the rights of each

other. Where conflicts arise between the political parliament and the Guild Congress, they shall be reconciled by a joint committee of the two bodies. This joint committee shall speak with finality.

The guild socialist assumes that all production can be eventually controlled by the Guild Congress. Business and industry, while somewhat co-operative, have never yielded to this control, either public or private. They are based on diversities which defy the uniformity guild socialism suggests. This doctrine invests the state with a greater regulatory function than is needed, and places on the worker a responsibility he is totally unprepared to assume. Capitalism would not exist in this scheme.

Guild socialism proposes a system of representation based on interests. While territorial representation may make possible sectional domination, guild socialism opens the way to the control of special interests or groups. "Functional" representation means, in the last analysis, that the state, as the guardian of the general welfare and of the rights of all, must yield to the other forms of association which have no objective except control, no interest except their own, and no machinery except for their own purposes. The territorial representative is at least deterred by the fact that he represents several classes of society, and that special representation will lose him political support. The functional representative has only his guild to think of. He is completely responsible to one alone. But the guild socialist mistakes the nature of men in his schematic moulding of society. Citizenship, however, means something more than mere economic or industrial membership in the state. Citizenship is a spiritual manifestation which rises above the level of mere titular allegiance. No scheme of social order can be devised and accepted which does not take this into account. Man is political and social in nature. He must and will serve his fellowman as well as himself. He serves best through the

state. The guild socialist loses his case by not taking into account sufficiently the growing significance of citizenship. He overlooks a moral relationship which even economic interest cannot displace.

The most striking experiment in communism is the Bolshevist movement in Russia. The leading doctrines of the international communists are the famous "Twenty-one Points," adopted by the second congress of the Communist International as conditions for membership in the Communist International. These conditions, briefly stated, are:

1. Propaganda and agitation must be in keeping with the communist character and with the program of the Third Internationale. Party press organs must be responsible. The dictatorship of the proletariat must not be an empty formula, but must be taught to the working classes through the facts of daily life. In all possible places under party auspices the bourgeoisie and its accomplices must be "systematically and unmercifully" branded.

2. Organizations seeking affiliation with the Communist International must replace their management with proved communists.

3. Bourgeois legality, especially in England and America, must be met with a parallel illegal organization which shall at the proper time function to aid the revolution.

4. The Communist allegiance carries with it the special obligation to carry on propaganda within the army.

5. The proletarian revolution must, through a "systematic and well-planned agitation in the country districts," gain the "support of the country proletariat and at least a part of the poorer farmers, and the neutrality of part of the rest of the village population."

6. No international court of arbitration, no limitation of armaments, and no democratizing of the League of Nations can prevent new imperialistic wars. Only the revolutionary overthrow of capital can do this.

7. Parties adhering to the Communist International

must make a clean break with "reformism" and with the policy of the "center."

8. Groups of the Communist International in countries where colonies are in the hands of the bourgeoisie must expose the tricks of their imperialists. The working populations of these colonies and oppressed nations must be sympathetically treated.

9. Communist agitation must be carried on within all labor organizations, through nuclei organized to "expose the treason of social patriots and the instability of the 'center'."

10. A stubborn struggle must be carried on with the Amsterdam International of the "yellow trade unions," and support must be given the International Association of the "red trade unions which affiliate with the Communist International."

11. Communist members of parliaments must subordinate their "entire activities to the interests of genuinely revolutionary propaganda and agitation."

12. Parties must be built upon the principle of democratic centralization, "organized along extremely centralized lines," and "controlled by iron discipline."

13. Communist parties must cleanse themselves periodically of the petty bourgeois elements creeping into them.

14. "Every party wishing to belong to the Communist International is obliged to offer unqualified support to every soviet republic in its struggle against the counter-revolutionary forces. The Communist parties must carry on a clean-cut propaganda for the hindering of the transportation of munitions of war to the enemies of the Soviet Republic; and furthermore, they must use all means, legal or illegal, to carry propaganda, etc., among the troops sent to throttle the workers' republic."

15. Parties retaining their old Social Democratic cast must work out a new Communist program in the shortest possible time.

16. The congress and the executive committee of the Communist International shall make decisions binding on all the parties. Its organization shall be along centralized lines.

17. Parties must change their names to comply with the law and the spirit of Communism.

18. Party press organs in all countries must print all the important documents of the executive committee of the Communist International.

19. Parties applying for admission must call conventions to consult the conditions of the Communist International.

20. Parties seeking admission without having changed their course must have two-thirds of their members definitely on record as committed to the principle of affiliation within a given time.

21. "Those party members who, on principle, reject the conditions and theses laid down by the Communist International are to be expelled from the party. The same thing applies especially to delegates to the special party convention."

The "Twenty-one Points," as summarized above, reveal much of the method and some of the doctrines of communism. Its system of party discipline and control, its demand for an undivided allegiance, its insistence upon active party service, and its proscriptive penalties indicate that its means must be effective. Opposed to any government except that of the proletariat, it would set up a party allegiance and service more arduous and exacting than that of any democratic state.

A few comments on this group of programs are now in order. Collectivism, apart from its doctrinal phases, upholds a theory of the state as an active force in society. The many doctrines of state activity reveal chiefly the views of their proponents. Both the individualist and the

collectivist agree that the state must be invested with the usual functions which through the ages have been found necessary to the maintenance of an ordered community. These include the right to pass laws, to collect taxes, borrow money, and regulate coinage, to provide for the national defense, to declare war and make peace, to enter into relations with foreign states, to regulate commerce, to enforce laws, and to take measures necessary to carry out these functions. The doctrine of a limited government with restricted powers would reduce government activity to these basic functions. The advanced collectivist regards these functions as insufficient and urges that the state should be an active and positive force.

The interests of society require the continued application of both principles of individualism and collectivism. The state, becoming more powerful all the time, could easily become, even under democratic forms, as autocratic as under royal authority. On the other hand, with the great changes in modern life, society would be helpless today without the positive services of the state in certain important matters. Collectivism is hardly a satisfying pancea for the politics of peace.

CHAPTER X

NATIONALISM

It is idle for man to ignore or to deny the claims of the state. Mankind is committed to the proposition that the state is necessary and its regulatory function for the good of all. It is self-evident that there are proper obligations to society which the state may call upon us to discharge. There is a general amenability to the laws of the state. Groups are ready to debate the extent of the obligation, the nature of its application, and the means of its enforcement; but they admit the fact. There is little disposition today to start a revolution or civil war merely because the state exercises power. In most cases this power is limited and defined. In every case it must be responsible. The state is not above the law. Force there must be. There must be prisons to restrain the criminal, a police force to keep the peace, the probation officer to guide the wayward, courts to decide and to enforce the laws, and even a militia to prevent uprisings and suppress violence. But these are subject to law, in pursuance of the law, and really servants of the law. Such measures of control in national life are assumed.

It is in the international realm that we find the least of order, of law, of justice, and in the last analysis the most of force. The army is regulated in times of peace by the special form of jurisprudence known as military law, and carries on belligerent operations under the so-called "laws of war." The army may also establish a condition of "martial law" over a civilian population. It is in time of war that the laws, municipal and international, are silent. The army and navy, the measures of national defense, the frontier, prestige, national honor, and the protection of rights of citizens abroad are all manifestations of the spirit of nationalism. It is not too much to state that they are the greatest manifestations of this spirit. Fear, suspicion,

avarice, notions of prestige—all elements of an extreme nationalism—come into play in the state's international life. Nationalism, it should be understood at the outset, is in the main the product of a state's external rather than its internal relations.

Nationalism is perhaps the most prevalent and the most emotional feeling in the world today. Its very universality complicates the problem of definition. Where one seeks to be clear, to avoid hiding behind political jargon, the problem is still more difficult. John Stuart Mill in 1862 attempted a definition in his *Representative Government:* "A portion of mankind may be said to constitute a Nationality if they are united among themselves by common sympathies, which do not exist between them and any others, which make them co-operate more willingly than with other people, desire to be under the same government, and desire that it should be government by themselves, or a portion of themselves, exclusively." All this is true of nationalism, but it falls wide of the mark as a complete definition. Any group associated together for mutual purposes would have the characteristics set forth by Mill. A church, a municipality, a lodge, a trade union, a colony, or any area of local government may be guided by such motives. Professor G. P. Gooch, in his admirable little book, *Nationalism,* comes nearer to the point. To him, "The core of nationalism is group-consciousness of a nation." The identity becomes complete when he hitches the doctrine to the state. He declares: "Nationalism denotes the resolve of a group of human beings to share their fortunes and to exercise conclusive control over their own actions. Where such a conscious determination exists there should be a state, and there will be no abiding peace until there is a state."

The view of C. Delisle Burns is widely accepted. Nationalism to him is that quality in every group which for the sake of humanity should be preserved. This gives to each worthy group a "national character," which is ex-

pressed through its sovereignty, its equality, its independence, and its right to organize itself at will and to perfect its own laws. Professor Carlton J. H. Hayes of Columbia University regards nationalism as "the most significant emotional factor in public life today." His explanation of it is simple enough: it is merely the fusion of patriotism with nationality.

Certain of the acknowledged elements of nationalism require individual consideration.

A. *Religion.*—There is no greater force in the world, national or international, than religion. It is something which is addressed to the heart of mankind and which of course transcends considerations of race, geography, politics, or commerce. But in being larger than these it is also a part of them and is an element in nationalism. Religions have always sought to further their hold and to achieve their purposes through political action or through some control of or entente with the state. It is blindness to deny this and folly to ignore it.

Religions make a universal appeal, and nowhere is it contended that religious faith or truth is a part of statehood. Judaism did not begin with the state, but it was mixed with civil administration. Theoretically, Christianity would "render unto Caesar the things that are Caesar's and unto God the things that are God's." Passive obedience in matters of state is commended; but the Christian church does not stop here. The state must have definite religious objectives. The Crusades represented an interesting fusion of church and state, amounting to a kind of medieval nationalism. Religions have contended one against the other, but always through great national states. Not only have Christian and Mohammedan fought each other, but Roman Catholic and Protestant have been parties to contests fully as deadly. Moreover, there have been bitter contests between divisions of the Protestant faith. In Mexico a great church has recently resisted actively

the aims and activities of the government in carrying out its policies as they relate to church property, worship, and private property. Over the years, the church will doubtless win, even though it does not control the power of the sword. There are in the United States several Protestant denominations which cling to their pre-Civil War divisions, though the political issues of that war have been settled and its rancor and bitterness are forgotten. We have a sort of political tradition that a Roman Catholic cannot be elected President of the United States. The Eighteenth Amendment to the Constitution is partially Protestant Christianity expressing its voice through the amending power. The very nature of religion connects it with the state, even though indirectly. It is a popular subject. It is subject to much speculation and opinion, as is politics. It deals chiefly with the emotions and passions of men, and therefore open to political uses. It may dictate acquiescence or enthusiastic support of a government. It may turn the people or a part of the people against the government. It may set one nation against another. Whatever its effect, its influence in state life is certain.

B. *Race.*—It is common for writers to assert that race is not a necessary condition of nationalism, and to stress the cases where this is in a sense true. In no nation can there be said to be a pure common blood. But we do not live in an absolute world. This is a world and an age of relativity. While there are differences of blood and race in the United States and Great Britain, it must also be admitted that there is in them a prevailing stock, and that from the stock flow language, a common legal system, and a dominant faith. Races are eternally attempting to realize their ambitions through political means. Poland, thrice divided, persisted in her racial ideals until she survived the three autocracies in the way of her national organization and development. The non-operation of certain provisions of the Constitution in certain parts of the United States is

eloquent proof of the significance of race questions in national politics and national life. Laws in the western states forbid persons ineligible to citizenship through naturalization from owning or leasing land. National laws keep them from coming here or from acquiring citizenship unless born within the country. Our immigration laws are now shaped to limit and practically to exclude certain races and nationalities and to encourage the immigration of others. Agitation to change these laws merely shows how important politically the question is. In national elections racial groups in the United States often vote for the racial rather than the national interest. One of the reasons which Secretary of State Hughes assigned for our adherence to the Monroe Doctrine was the danger of internal differences in the United States should the government take a stand on any European question. During the troublesome days of neutrality, and even during the war, the influence of race and nationality profoundly affected our foreign policy and, in the opinion of many, delayed American participation in the war. Japan, while an ally of the powers, was limited to naval action in the Pacific. This was to be a "white man's war," so far as fighting at the front was concerned, even though colored troops, both American and French Colonial were employed. A great nation of a non-Caucasian race could not, through its military prowess, be permitted so great a part in the control of Europe and the world. The politics of the British Empire are surcharged with questions of race. Race is an element of nationalism.

C. *Language.*—Professor Hayes declares language to be the determining mark of nationality, and attempts to refute the statement of others that this is not true. Such examples as three languages in Switzerland he describes as "beside the point." Nevertheless, three languages are spoken in Switzerland, there is there no official language, and in no other country in the world have you such pure democracy, such attachment to flag and country, and such

wholesome participation in the affairs of state, local, cantonal, and national. This may be explained in part by the fact that many of its people speak two or more languages; and it disproves the contentions of Professor Hayes that language is the essential element. Identity of tongue does not necessarily conduce to understanding, to peace, and to a reconciliation of differences. We have had a civil war, as most nations have had. Of our six wars, civil and international, two have been with our great English-speaking neighbor. That a common language makes an easy means of communication, that it facilitates standardization, that it allays prejudices and breaks down barriers may be admitted. It would not do to underestimate its influence. Yet our traditional friendship with France is almost a corollary of our foreign policy.

I was impressed with one thing at the conference of signatories of the World Court Protocol, held in Geneva in September 1926, to consider the American reservations. I expected the British, Canadian, Australian, and New Zealand delegates to be the most friendly to the point of view of the United States, owing to our common jurisprudence and our common tongue. These identical interests would, I thought, make them better understand and appreciate the American point of view. Instead most of the criticism came from these English-speaking neighbors. The continental representatives, speaking several different languages and following an entirely different legal system, sought without exception to reconcile the American point of view with their own. The recent minorities treaties attempt to preserve the language rights of groups denationalized through the changed boundaries of the Treaty of Versailles. But these rights embrace also religion and race, elements which Professor Hayes would exclude. Is there any reason to believe that language is the essential right so guaranteed? If so, why mention the others? It should be remembered that language bulks so large because it is

a common vehicle for other things. To enthrone language above faith or race is to put form above substance, letter above spirit.

D. *Geography.*—Akin to this are the influences of climate and resources. Too close reasoning along this line will lead us into what C. Delisle Burns is pleased to call "fallacies of the geographical hypothesis." Climatic and geographical conditions do not mould national character so completely as to control it. It is common to ascribe a higher civilization to Europe than to the East, on the ground of a more rigorous European climate. It is also common to say that the colder climates produce a hardier and more ambitious race than the tropics. Much can be said in support of such a theory. But much can be said against it. Man must earn his living. He is limited by nature to the resources which abound in the region of his residence. These resources determine his occupation, his economic status, and his political interest. If a people remain in a certain fixed territory for long, without the influence of travel, immigration, or commerce, a certain standardization will result which is harmful to the state. It will be an exaggerated nationalism. Japan was less than a century ago confined to an archipelago, permitting no commercial or political contact with the world, and admitting no immigrants. Such confinement left its traces on Japanese life and character.

The effect of geography on the form of a state or government is interesting. The far-flung British Empire defies logic or classification, merely because it is spread out over the world. Holland and Italy are unitary states because of their very compactness. The United States, Canada, and Australia are federal unions because of their continental character, and because diversities of regions require within the national government a number of virtually autonomous units. The United States, because of its self-sufficient continental character, and because of its remote location,

may follow the restrictive policies of isolation, exclusion, and protection in a day of world economy under a world order. Geography is not the dominant element but is an influential one.

E. *National character.*—As to national character we must be careful in reaching conclusions, but, unlike Professor Hayes, we need not dismiss the subject as so much "buncombe." That each nationality is possessed of a group mind or consciousness which marks it off from every other and distinguishes it above others is not altogether true. No race is endowed with genius, political capacity, or economic power to the extent that it cannot be reached or surpassed by another group or combination of groups. But differences of national groups do exist, and they are not altogether accidental. It is dangerous to speculate as to the peculiar qualities or endowments of peoples. It leads to fallacy, to misrepresentation, and to nationalistic bigotry. Fortunately, we do not have to rely on speculation in order to draw certain definite conclusions. It is a fact of history that England has been a seafaring nation, and that she has been the world's greatest colonizer. The United States easily leads the world in business and industrial organization. Germany developed the greatest military machine the world has ever known and was the most efficient in military affairs. France has without exception made the greatest contribution among modern nations to the culture of the world. The positions of primacy in these fields have been held at different times by different states. But undisputed leadership in these fields indicates a special fitness or capacity to lead. Living together, acting together, fighting together, gives a likemindedness from which will appear the thing a group can best do. That the Greeks excelled in religion and philosophy and the Romans in law and in war can be definitely accounted for. National policies, national conduct, and national ideals, spring in part from a national character.

F. *Tradition.*—On this point there is little debate. Burns calls it "unity of tradition." Hayes designates it "historic tradition." Such is the nature of the common law, which runs back to the time "when the memory of man runneth not to the contrary." Such is the nature of usage in the British and American constitutions, which become solidified and definite with the passing of time. Such is the nature of the historical or evolutionary theory of the origin of the state—working of historical forces. Such is the character of political practices which become national political institutions. And of such is the modern nation—based on a common purpose, common memory, a common association, a common heritage, and a common ideal. Continuous contact and sustained common participation in the affairs of state produce common concepts which become institutionalized in the fundamental law of the state.

G. *Commerce.*—Economic interest is one of the mainsprings of nationalism. It is idle to contend that economic purpose is behind every national organization. But it is true in part. The "founding fathers" did not have in mind a government which would only take care of its obligations and pay interest on its securities. But they did have a government in mind which would be "adequate," and to be so, it would have that effect. States often, in following their economic interests, adopt restrictive policies. The United States follows a policy of protection because the Congress deems it best for the prosperity of the country. England, based on a different economic system, follows a policy of free trade because her interests so dictate. Europe is so much of an economic unit that tariff walls, if too high, are ruinous to the economically dependent state. The tariff barrier is more important than the frontier, and is an evidence of an exaggerated nationalism. But self-interest dictates that the ruin of a neighboring state may mean the ruin of the neighborhood of states. While protection seems to be the more nationalistic commercial policy, free trade

may be just as much so. Commercial policies of nations are clearly and perhaps inevitably nationalistic.

H. *Patriotism.*—This may be the noblest or the lowest element of nationalism. Of its abuse I need not speak. Men are usually patriotic because they want to be, and not because they have to be. They vote from pleasure rather than from duty. They fight for their country through devotion rather than through impressment. Patriotism cannot be defined, but it goes beyond one's duty to obey the laws, to pay taxes, or to pay a penalty. It springs from emotion and conviction rather than from logic or reason. While many crimes have been committed in its name, yet patriotism has in the main enabled the state to survive against itself, its neighbors, its rivals, and its enemies. In preserving the state it has preserved an ordered society. Its greatest source of strength is its voluntary character.

There remain to be considered in the next chapter certain specific varieties of nationalism.

CHAPTER XI

VARIETIES OF NATIONALISM

It is commonly agreed that nationalism is a recent phenomenon, and that its rise has been coextensive with that of the modern nation-state. Nations antedate the doctrine of sovereignty. This was especially true of France and England. The doctrine of sovereignty is essentially a legal concept which denoted the superiority of the sovereign or ruler to forces within or without the state. It denoted a certain allegiance, to be sure. But it remained for the nation-state of the late eighteenth century and afterward to command an allegiance which might amount to worship or devotion. The question and problem of sovereignty are usually subjects for legal disputation. We are now concerned with a spirit which does not lend itself to legal discussion or to precise classification. To understand it, we are forced to understand the development of its vehicle—the modern nation-state. I begin with the United States of America, because one must begin somewhere, and this nation seems to be as logical a starting-point as any.

A. *The United States of America.*—It need not be established that modern nationalism began with the American Revolution. That was one of the outstanding political events of the eighteenth century, culminating in the establishment of an independent state. Much has been written about the Revolution as not a truly national movement. Some represent it as barely a majority movement, while others declare it to have been the work and inspiration of a minority. But the verdict of history is more eloquent than the speculations of historians as to what was the ultimate nature of the movement. Definite grievances against Great Britain were embodied in the Declaration of Independence. The redress of these grievances took a political form. A

government was established to make and enforce laws and to enter into negotiations with foreign states, also an army and a navy to carry on war. It at length became a national movement. Moreover, one hundred and fifty years of national life have impressed the United States with a definite national character. Historic tradition inevitably has this effect. The beginning of a national movement often becomes less important than the form it assumes with the passing of time. There was from the start in the United States a group-consciousness of power. Many of the elements of nationalism were present, including common grievances. People of common interests get together. The agitation resulting in the Declaration of Independence, backed by such fiery men as Patrick Henry and Samuel Adams, was a genuine nationalism. It took political form through the less spectacular but essential Articles of Confederation. Constitutions of government have to do with the organization of nationalism and its political expression. The principles of the Declaration of Independence were not designed to form a "more perfect union," or to formulate a government "adequate" to the needs of the people. An establishment of a government was the important thing then, and a release from British political and commercial restrictive measures. The Declaration is not and was not intended to be a constitution of government. It was in fact a brief against the British king, and an announcement and justification of the course of the new state, out of a "decent respect to the opinions of mankind." In the life of states such documents symbolizing great events are necessary. The whole story of our national life cannot be found in the Constitution of the United States. The rights of the American revolutionists may have been predicated upon a mistaken political philosophy, but their product has endured—the continued political independence of the United States.

B. *The French revolutionary movement.*—The social-

contract theory, useful in England and the United States for the rectification of existing abuses and for the establishment of a new state or government, became a firebrand in France. Rousseau is a far cry from Locke. The Declaration of the Rights of Man was far more radical than the Declaration of Independence. The States-General intended to address itself to the king as its friend and protector against feudal abuses; but tradition, always a sobering element, yielded to "reason" in political matters. Tradition is fixed, and speaks for itself. Men of honest minds, while not agreeing with it, can agree on what it is and the direction in which it points. But reason may be anything, and will vary as does the opinion of the group which so labels its political decisions. The Third Estate became enthroned, the king was ousted, and the French nation had to act for itself. At this point France became group-conscious. No longer was the French king, as Bodin had said, sovereign within his own dominions and free from all external control. The settlement of the domestic question might have rested, with the enthronement of the proletariat and the expulsion of the king. But the French began to fear for their democratic régime. Other sovereigns, if let alone, might interfere with their plans. Safety seemed to lie in an active campaign against dynastic control. Moreover, all peoples who sought to recover their liberties should be helped. It would deliver France of her greatest foes, and bring to her standard millions who, like themselves, had been ground beneath the heel of royal power. Thus a desire to rectify existing abuses was fanned into an extreme nationalism which was designed to carry the French idea of liberty to all peoples. Most people joined their sovereigns in attempting to reduce France to the condition of an ordinary nation-state. The result of this movement is proof positive of the international character of nationalism. The assumption of leadership by Napoleon did not take from the movement its national character, but in some ways in-

tensified it. France, to negotiate for peace, disavowed the acts of Napoleon as that of a pretender and an invader. But his hold on the imagination of the French people is perpetual. Napoleonic invasions of Italy, Spain, Germany, and other countries engendered counter-national movements. While Napoleon envisaged a political organization and administration for these peoples under his control, and while he sought to supply a form of unity previously lacking, they did not want the form without the substance. He could not manufacture nationalism. French nationalism goes back to the days of the Revolution. Separate nationalist movements, acting in concert, resisted Napoleon's plan for a European state under his control. But it fanned the fires of nationalism among the invaded peoples which later took the form of several modern nation-states.

C. *The Latin-American states.*—The pronounced nationalist movement in the countries to the south of the United States, under Spanish dominion, began with the placing of Joseph Bonaparte, brother of Napoleon, on the throne of Spain. The Spanish objected to this procedure and organized juntas to resist it. The opposition spread to the American colonies of Spain, where juntas were also formed to protest against Napoleonic control. The mother country, misunderstanding the motive or fearing the result, would have nothing to do with colonial demonstrations and desired to settle these domestic questions independent of the colonies. The natural thing happened. The loyalist juntas in the colonies, organized to resist Napoleon, became centers of protest against the mother country and the established order. By the end of 1824 the colonies had become practically emancipated from Spanish rule. Of course much remained to be done from the standpoint of constitution-making and political organization. It was an independence which was established only after bitter and long resistance to Spanish pretensions to power and authority. It is beside the point to cite here the history of the

establishment of their independence. But from the beginning under the leadership of Hidalgo, the Mexican priest, in 1810, until the victory of Ayacucho in Peru in 1824, the fires of nationalism burned on the field of battle. The spirit of nationalism has continued. Efforts in Central America to consolidate sovereign states seem doomed to failure. Historic tradition has again, through a century's development impressed national states with a national spirit and character.

D. *Germany.*—The unification of Germany represents a latent nationalism, inevitably checked by other forces, which, rising to the surface, resulted in the formation of one of the greatest nation-states. Time out of mind, the Germans have dreamed of unification and of empire. Such ideas penetrated the mind of Charlemagne and were a part of the political philosophy of many German kings and princes. Every effort to reduce the discordant factions and states to some form of unity seemed doomed to failure. Napoleon gave a semblance of unity to the region. Moreover, after his retirement, it seemed that the forces of Germany which united to rid themselves of Napoleonic rule might continue as the nucleus of a unified state. But the map-makers of Vienna had other plans. The liberal movement of 1848, felt throughout Europe, also seemed to be an opportune time for the development of German unity. Austria had contributed to the feeling of unrest. This penetrated Germany. But the princes, ever present and influential, interfered, and the opportunity of a liberal, united Germany passed. The German liberals would have established a government based on the free consent of the German people, a confederation something like the United States of America. But Bismarck, the real moulder of German unity, was of another mind. The army should be the engine of war to bring it about, and the Prussian king the political institution through which it should be effected. Austria, opposed to unity, must be put aside. The remain-

ing states must be persuaded that only under Prussian leadership was the desired unification to be achieved. Bismarck, called into the service of his state in 1862, set about his business with determination. In 1864, Austria joined Prussia in a war against Denmark over the Duchies of Schleswig and Holstein. Of course Denmark lost the war and relinquished the duchies. In 1866 Prussia quarreled with Austria over the disposition of the territories, and after a seven weeks' war Austria was expelled from the Confederation and the North German Federation was formed, with Prussia as the leader. Certain small states were added to the new state against their will. But the south German states should be brought in, and they feared Prussian domination. The international character of nationalism again came to the front. It must be done by means of a foreign war. War with France ensued. It became a national, not a separatist struggle, with the south Germans faithful to the cause of their brethren of the north. The Germans won; and by the Treaty of Frankfort, Alsace-Lorraine was taken from France and that country had to pay an indemnity of five billion francs. The south German states entered the union, and the king of Prussia was proclaimed German Emperor in the Hall of Mirrors at Versailles. Thus was born the most terrible vehicle of exalted nationalism known to the world. The mode of manifesting this nationalism is now known only too well to men and nations the world over. Germany at length paid the price of her folly, but only after others had been made to suffer more. Such is the injustice of the thing.

E. *Italy.*—It is surprising that in a country as old as Italy, from the standpoint of history and territory, nationalism came so late. As in Germany and elsewhere, a sort of unity was introduced by Napoleon in 1805, when he crowned himself king of Italy with the iron crown of the Lombard kings. To be sure, it was to be a unity under a foreign monarch, but it brought home to Italians that Italy

was really a unit and should be made a nation. After the settlement of Vienna, Austrian influence was restored in Italy and the condition of unification was thus postponed. The only native ruler was the king of Piedmont. Foreign domination could not last forever in a country which had experienced a taste of unity. Italians dreamed of what it might be under their own control. Secret societies sprang up. Revolutionary movements were either nipped in the bud or suppressed by Austrian troops. But in 1831, Mazzini, the prophet of Italian nationalism, appealed to Charles Albert, king of Piedmont, to become the leader of the anti-foreign and the unification movement. While rebuffed, he was undeterred and constantly agitated union through joint effort. A period of republicanism aided the movement. In 1846 Pope Pius IX granted a number of mild reforms. In 1848, the king of Naples, unable to secure the aid of Austrian troops, was compelled to grant a constitution. Liberal constitutions followed in Piedmont, Tuscany, and Rome. In some of the cities, the foreigners were driven out, and independent republics were set up, or the city annexed itself to Piedmont. Charles Albert warred against Austria, and independent republics were established in Rome and Tuscany. But in time the Austrians were successful and the Pope was restored to Rome with the aid of a French army. Failure thus far attended the efforts of the nationalists. But Piedmont had established itself as the leader of the movement. Its king was anxious to expel the foreigner. Other states would attach themselves to this one by process of accretion. Cavour in time became Prime Minister. He set out to win France and England for Italian unity. He engaged in the Crimean War for purposes of policy, and raised the Austrian question at the Conference of Paris. Gladstone championed the cause of Italy. Louis Napoleon finally agreed to furnish an army of 200,000 men to expel the Austrians from Italy, if France could receive Savoy and possibly Nice. War with

Austria followed, but Louis Napoleon agreed to a peace without consulting his ally. Lombardy was ceded to Piedmont, but this was the only territorial change. Yet the process of accretion had begun and would soon work out as the crusaders had desired, but of course through a slower process. In rapid succession, Tuscany, Parma, and Romagna were added to the Piedmont banner and their Austrian rulers displaced. Sicily and Naples surrendered to Garibaldi. In February 1861, Victor Emmanuel was proclaimed king of Italy at Turin. Venetia and Rome were still outside the pale. Bismarck joined Italy in a war against Austria, claiming Venetia as his reward. French and papal troops had successfully resisted raids on Rome. But in 1870 they broke through the walls of the city, and in 1872 Rome became the capital of the new Italy.

F. *Japan.*—The spirit of nationalism, springing from the modern European nation-state, spread to the Far East. It is a land where they cling to the old but also adopt the new. It is a meeting of two rival forces, both contending for the mastery. But while the Eastern peoples take on Western forms they continue to reaffirm their own personality of the past. Japan's rise as a world power was the outstanding political event of the nineteenth century. Against her will Commodore Perry in 1854 compelled her to open her doors. The Shoguns abdicated in 1867. The power of the Emperor was restored. Commissions were sent to Europe to report on government reforms. A constitution was adopted, a civil code framed, an army and navy established, and education introduced. A parliament was established at Tokyo. The nations at length consented to the abolition of extraterritoriality and the relinquishment of foreign customs control. By internal development Japan became a recognized member of the family of nations in full standing. But her rise also has its international aspect. This is sketched by Hishida in his *Rise of Japan as an International Power.* After a war with China, Japan

gained by the Treaty of Shimonoseki the Liaotung peninsula, the island of Formosa, and an indemnity. But Russia, France, and Germany compelled Japan to disgorge, and two years later Russia seized the territory for herself. Affairs between Russia and Japan had been drifting toward war. Russia refused to evacuate Manchuria, and might refuse to respect Japanese claims to Korea. Great Britain and Japan signed an alliance pledging aid to each other in case of Russian aggression, although Russia was not named in the pact. War came in 1904 and peace in 1905. Japan had a splendid military and naval machine and really surprised the world with her prowess. The victory resulted in the Peace of Portsmouth, by which Japan received the Liaotung peninsula and the southern half of the island of Sakhalin. Russia agreed to evacuate Manchuria and to recognize the claims of Japan to Korea. The defeat of Russia thrilled the peoples of Asia to the heights. A great Western power had been defeated by a nation of the East! Western forms and methods had helped in this amazing victory. But Japan held jealously to her old principles and traditions. A national character of the East, survivals of a past age, remained. The dynasty of the Mikado, which has reigned for twenty-five centuries, is worshipped. The Mikado is the greatest source of national inspiration. But there is also ancestor worship. Their ancestors win their battles and their place in the world, according to the Japanese view. The individual counts there for nothing; the state and the community are everything. To explain Japanese nationalism, we must look to Western forms and methods; but at bottom the explanation lies deep in the roots of the past.

G. *China.*—Chinese nationalism, like Japanese, is a modern manifestation. A nation steeped in the political and moral philosophy of Confucius and Mencius, predicating a political organization in keeping with nature and divine appointment, would be slow to take on Western

forms, and slower still to abandon its ideas of the past. Centuries of feudalism, centralization, and absolutism had given practical effect to this sort of political philosophy. A new form, if not a new philosophy was needed for a new age. After the war with Japan, measures of reform seemed to have a good chance. But the ambitions of the powers, in securing concessions, thwarted the reform movement, and stirred up opinion against the foreigners. The Boxer Rebellion was the culmination of this unrest. While China was punished, it was a warning against future efforts to parcel China among the allies. After the defeat of Russia by Japan, China entered upon an important period of political, commercial, and social development. New decrees were issued, introducing modern systems of education, engineering, sanitation, and justice. A definite constitution movement got under way. Assemblies were established in the provinces in 1909. In 1910 a national assembly met at Peking. In 1912 the Peking dynasty was deposed. The parliament met formally in 1913, with Yuan Shih-Kai as President. Sun Yat Sen initiated a movement in the South, which has resisted successfully the control of the Peking government. The details of the nationalist movement cannot be given here. But Chinese nationalism is here, and to stay.

H. *Nationalism at the Peace Conference; the new states of Europe.*—I have sketched briefly the rise of some of the modern nation-states, in order to show how national aspirations sought and achieved political expression. The motives in these cases were mixed, in part a legitimate desire to determine their own course for themselves and in part a desire to rule over others. German unity, for example, meant Prussian autonomy, but also Prussian control of the other German states. The movement for national self-determination along racial lines failed signally in 1848. There was little renewal of the fires of patriotism until the Great War, when this issue, along with many

other unrelated ones, came to the front. The great empires of Europe and Asia defied any application of the principle to their populations. Germany probably was the leader in this principle. The German Empire included Poles, Danes, and French, located, respectively, in Posen, Schleswig, and Alsace-Lorraine. Turkey was made up of a majority of subject peoples, including Greeks, Arabs, Kurds, and Armenians. The Austro-Hungarian empire embraced Czechs, Slovaks, South Slavs, Ruthenians, and Poles. Russia included Poles, Finns, Georgians, Lithuanians, and the Ukranians. The principles of self-determination and of nationalism had come face to face with the principle of imperialism. The empires would not yield, and the groups seeking independence were too weak or too isolated to resist. Only the Great War could have brought about such success.

The subject nationalities found their opportunity to even scores with the empires during the course of the war. The allied powers were committed in a sense to the policy of self-determination. They at least sympathized with it as an ideal. But it was also good political and military strategy to fan the fires of jealousy, and to drive a wedge between the empires and their subject nationalities at a time when dissension was most embarassing. The support of the allied powers brought success to their separate causes. It also secured for them better treatment at the Peace Conference than they would have secured as parts of the enemy states sharing the fate of the enemies. The application of the principle of self-determination was a convenient solution to the problem of the old empires. The allied powers had to make some disposition of them. To constitute them parts of the domains of the victorious nations was impossible. The old empires had come to an end, owing not only to their defeat at the hands of the allied powers but also to the decisions of their own peoples. The only solution was to constitute these peoples independent

states. In pursuance of this policy Germany was continued as a state with many of her former boundaries but was compelled to cede Alsace-Lorraine to France, Prussian Poland to Poland, and a part of Silesia to Czechoslovakia. The Saar Basin was to be under French administration for a period of fifteen years, after which a plebiscite is to determine whether it will become French or German in nationality. Upper Silesia was to determine by vote whether it should cling to Poland or to Germany. The German votes were the most numerous. The Council of the League attempted to divide the industrial region between them so that minorities would be reduced and no region impoverished. While not respecting the verdict of the majority, the principle of nationality was at least respected. Schleswig was to determine between Germany and Denmark in the same manner. Danzig was to be erected into a free city under League of Nations control. Eupen, Malmedy, Moresnet, and Memel were taken from Germany, in defiance of the principle of self-determination. By the Austrian treaty of Saint-Germain and the Hungarian treaty of Trianon, the new states of Austria, Hungary, and Czechoslovakia were recognized, and carved out of the old Hapsburg Empire. By the same treaties Galicia was joined with Poland, the Yugoslav provinces with Serbia, Transylvania with Rumania, Italia Irredenta with Italy, and German West Hungary with Austria. These were consistent applications of the self-determination principle. But in other particulars the principle was violated. A union between Germany and Austria was forbidden. Italy was given a part of the Tyrol. Czechoslovakia was given sovereignty over many Germans, Magyars, and Ruthenians in order that the territory occupied by these peoples might pass to the new state. Moreover, Ruthenians were included in Poland, and Magyars in Rumania. Certain plebiscites were arranged for. The Bulgarian treaty of Neuilly delimited the boundaries of that state, but the consequences were not so im-

portant as in the other treaties. By the Treaty of Sèvres, the old Turkish empire was virtually dismembered. Most of its dominions were either to be erected into class "A" mandates, to become independent states or protectorates, or to pass to the allied states. The control of the Straits was to be entrusted to an international commission. It was first a case of dismemberment; second, one of dividing the residue into zones of commercial influence; third, a high degree of international control in finance, armaments, leases, and waterways; and, fourth, a restoration of the capitulations. To the Turks it was a treaty of enslavement. The Treaty of Lausanne displaced the Treaty of Sèvres. By its terms many of the settlements of Sèvres were confirmed. But Turkey recovered Smyrna, Turkish Armenia, Cilicia, Eastern Thrace, and sovereignty over Constantinople. Capitulations were abolished. War indemnities were mutually renounced. The use of the Straits in time of peace and war was regulated again.

The question of minority rights was raised with respect to peoples denationalized by the Treaties of Peace. The allied powers on the one hand, and Poland, Rumania, Yugoslavia, Czechoslovakia, and Greece, on the other, engaged to respect and guarantee rights of worship, language, life, liberty, and equal citizenship of minorities, without regard to race, birth, language, faith, or nationality. The tenth article of the Covenant of the League of Nations was a general territorial guaranty. It is today a silent provision of the Covenant, but the aim was to bring controversies over territory to an end. Mr. Wilson's provision of a peaceful method of changing frontiers was discarded in the final arrangements.

We may conclude as a general proposition that the principles of nationalism and self-determination were in the main applied freely at the peace conference. This was done in the positive act of drawing the new boundaries, in providing for plebiscites, and in protecting minorities.

Where for reasons of economics, strategy, or defense the principles were violated, trouble has arisen and subsequent adjustments have been required to make good the former mistakes. In the matter of plebiscites, self-determination has on the whole been vindicated. The Turkish treaty, practically the opposite of these more humane principles, had to be completely redrafted. While the new lines drawn in deference to the principle of nationalism are severely criticized, no one has yet been able to propose a substitute plan which is both a better one and one acceptable to all parties concerned. After all, we do what we can in this world. Mistaken economic policies may flow from this. Boundaries in Europe have been doubled. But most peoples would rather live under forms of government and within boundaries in keeping with the wishes of their prevailing group than suffer political incorporation with empires. They have tried the latter and are tired of it. The new experience needs time, and they prefer to continue it even though it involves delay for political, social, and economic adjustment.

CHAPTER XII

AMERICANIZATION

Nationalism may be considered from the standpoint of any one of its elements. It may be considered as a process. Or it may be treated as Pan-Nationalism, which means a certain race seeking supremacy through political means. Under this heading we have such movements as Pan-Germanism, Pan-Slavism, Pan-Anglicism, Pan-Latinism, Pan-Islamism, the Pan-Asiatic movement, and the Pan-Nordic movement. These represent aspirations which have been tried and failed or which remain to be tried. To follow each would take us into the field of speculation. I prefer to discuss briefly the aims of certain nationalistic movements which have developed chiefly during the war and which have at least a measure of political support. However worthy any such movement may be, it can hardly be said to be true nationalism until it has the championship of a group which has or may secure control of the government of a state. The yearnings of such a group for political power are proof of its desire to achieve its aims in practical ways. I have therefore decided to limit my discussions to those aims which are now being realized or which have a fair opportunity of being tried out. The cases treated in this and in the succeeding chapters will be: Americanization, Bolshevism, the revolutionary régime in Mexico, Nationalism in Turkey, and Fascism in Italy.

Americanization to many is a legal process. To many others, it is a spirit and a manifestation of a special national character. To this special character the legal process is presumed to contribute. Citizenship or nationality, from the legal standpoint, is acquired by birth, by naturalization, or by revolution. The common law of citizenship by birth in a particular place (*jus soli*) is the most common

source of citizenship and finds a place in the Fourteenth Amendment. Citizenship by birth, by right of blood (*jus sanguinis*), depending on the nationality of the parents, is provided for in our statutes. Naturalization is an artificial legal process whereby a voluntary change of allegiance is effected by conforming to certain definite legal conditions. Citizenship through naturalization is guaranteed by the Fourteenth Amendment to the American Constitution, but the details of the process are regulated by statute. These legal conditions are: a declaration of intention to become a citizen; an oath of allegiance and a renunciation of the former allegiance; residence in the United States for five years, and in the jurisdiction of admission for one year; behavior as a moral and orderly person; and the renunciation of any hereditary title or order of nobility. Nationality in the United States was also conferred by reason of the American Revolution, when allegiance to England was dissolved by the Declaration of Independence. The government of the United States recognized in time the right of a citizen to expatriate himself. This applied not only to foreigners seeking admission to American citizenship but also to American citizens seeking to acquire another national character. Where a double allegiance results from two sources of citizenship, the claims of the state of original allegiance are recognized and an option is usually allowed the person so affected.

More important than the legal implications of American citizenship are the moral and spiritual qualities which are presumed to be conferred through its acquisition. Moral and educational safeguards may be erected against those who seek admission through naturalization, but little may be done as regards those who by accident are born in the United States. The intending citizen, to fit himself for these privileges, must bring something along with him to his new status. He must in the main be able to speak the English language. Polygamists, persons opposed to or not

believing in organized government or belonging to organizations fostering such a belief or advocating the killing or assaulting of officers of organized governments, are excluded from naturalization. A bureau of naturalization keeps close check on both naturalized persons and those seeking naturalization. The United States in setting up these safeguards has merely exercised the privilege of any society, that is, of excluding from its membership those who disagree with its major standards and policies and who would work for its destruction. After his naturalization has been achieved, the naturalized citizen stands on the same ground as the native citizen, with the exception that he cannot become President of the United States and cannot stand for election to the Senate or the House of Representatives until he has been a citizen, respectively, for nine and seven years.

The task of safeguarding the special national character is not left to the government alone. It is safe to say that a considerable majority of the American people are still of the opinion that certain principles of government were settled by the Revolution, and placed in the Constitution of the United States by the "fathers." Whatever the faults of the system may be, it has assured to most of the American people a measure of order, settled conditions, and prosperity which has not obtained in the countries of Europe. The result has not been obtained without a wholesome regard for the lessons of republican government. Opposition to measures of government, with a view to gradual change, is consistent with the American view of individual rights. But the government can hardly guarantee a right which would lead to its own destruction. Opposition, therefore, which has as its objective the subversion of the state, the uprooting of the established order, and the elimination of constituted authority has been met with substantial and, in the main, uniform resistance. The positive meeting of such opposition is the object of a number

of societies devoted to the perpetuation of constitutional government.

Other societies have constructive programs for the education of the citizenry, native and naturalized, in the duties of citizenship. This task is chiefly left with the public schools. It is clearly the duty of the state for those born here. In the case of the children of immigrants of the first generation it is assumed that "American ways" will be taught and adopted by the children in sufficient degree. In the second generation, the problem is presumed to disappear. But in the case of the foreign-born, there is assumed to be a serious problem. It cannot be met alone by legal tests and by government supervision. Therefore a process of instruction and education called "Americanization" has developed, with a view to the better fitting of foreign-born for the duties and responsibilities of American citizenship.

State, county, and city boards of education have given the matter their direct attention. Unofficial organizations and institutions have joined in the project. In some states objection is made that facilities are provided for training aliens to the neglect of the native-born. Instruction is of course offered in the American system of government. But the program is not limited to this. Most of the officials co-operating in this movement seek to aid the alien in need of such instruction to find his best place in society. Due regard is given to economic needs. If the alien understands English, he at once has opened to him an opportunity far in excess of his more ignorant brother. Occupational and vocational subjects are taught. Such education has most to do with the alien's economic and social good. He is not usually taught the principles of Karl Marx. He usually brings enough of such doctrines with him. By diligence he may improve his status and may reap a reward in proportion to his skill, industry, and intelligence. He soon learns that under a presumed system of economic equality

that does not equalize, he would be denied the fruit of his own labor. He becomes a devotee of the American principle that one is entitled to what he earns, and that he will, under this system, if he is diligent, receive more than under the so-called socialistic state.

While the Americanization process has its faults, it is entitled to be represented as it is and not as its enemies see it. Professor Hayes has asserted that nationalism may become a religion. Indeed, to him it is a matter of identification of nationality and patriotism. It may become a firebrand in the hand of the nationalist crusader. Of course this is true. But we cannot allow an abuse of the principle to blind us to the good and the need of it. The search warrant is abused, and the constitutional guaranty of immunity from unreasonable search and seizure is often violated. But because of this abuse it is not good to deprive society of this measure for the discovery of crime and the apprehension of the criminal. National pride is to be commended. Loyalty to anything which has an element of good is to be commended in these days when all loyalties are being challenged. Most Americans, while having a pardonable pride in their country, are not, after all, national bigots, and are impatient of national bigotry. The typical "one-hundred per-center" has lost his case because so few care to listen and because American citizens, even though living in a country of material self-sufficiency, are learning that we now live under a system of world economy. Sustained loyalty to American institutions is not the result of blind worship but is due to the conviction that it is the best way out for America.

The alarmist who fears a narrow patriotism and its results does not take into account the realism of the American voter of today. He is a very objective person. The eloquence of the Fourth of July orator may command his admiration, but not his vote, unless he is convinced. The level of political education is getting higher. The appraisal

of the candidate and the issue is becoming a careful one. The mere advocacy of the Constitution and the American form of government will get no one to his political goal. Too many men advocate this to give anyone distinction because of it. There must be some merit to one's candidacy and to the issues presented to the people. Moreover, the people of the United States adhere to their form of government because it has worked well. It is true that the foundations of the American government were laid at Westminster and Runnymede. But the foundations have lasted only because they have stood the test. Practical experience, extending over three centuries, is preferred to the more or less untried theories which come to us from foreign shores.

The new democracies of Europe must of course work out their destiny. But the American democracy, after a century and a half of preparation and a century and a half of actual government, can hardly be expected to embrace foreign principles except in case of demonstrated success on the other side and demonstrated failure on this. It is true that to some people the Constitution of the United States has become a Bible, and the makers of the instrument have been deified. Too much ardor is probably an error. But if there be any merit in error, the conservatives have erred on the right side. The object of their worship has proved its worth. Their excess emphasis on the virtues of the American system will be neutralized by the small but articulate number of its detractors, and the resulting national bigotry and destruction which comes from both extremes will be lost in the conscious and considered judgment of the mass of the American people. Such judgment, when rendered, is probably the most objective verdict given by any nation in the world.

Sometimes American nationalism protects itself through the positive action of the state. It is not unique because this is so. It is the business of the state to protect the

citizen, and to guarantee his enjoyment of civil and political rights. In case of insurrection or attack the state must protect itself from enemies, within and without. Wars, civil and international, are still parts of our modern system of statecraft. Until war is abolished the inevitable conflict between the war power of the government and the guaranties of civil liberty will arise. Such a conflict must be resolved in the interest of the public good. The end of the state in case of war is to win the war. The restriction of personal rights for the time being usually results. While differences of opinion are permitted when the United States is at peace, within the limits of neutral duty, war brings in its train a set of legal conditions and consequences which no one may disregard. During the Civil War, certain civil rights, such as the application of the writ of habeas corpus, were suspended in the interests of victory. During the Great War, the government took measures to make its prosecution of the war effective abroad and to prevent resistance to those measures at home. The selective service laws impressed men into the active service of the nation, and such an obligation took precedence over all conscientious objection to war. The espionage acts of 1917 and 1918 were passed to prevent interference or attempted interference with American military success. These acts were upheld by the courts as reasonable measures of government in the prosecution of its war power. As long as war as a measure of redress obtains, victory abroad can be secured only by a single purpose and loyalty at home. War as a desirable institution may be built on the wrong premise; but while it lasts, to permit national suicide at home is to invite disaster abroad.

Restrictive measures are sometimes adopted in peace as well as in war. The wave of democracy, which was released following the war, had a beneficial effect for a time. But everywhere radicalism became rampant. Revolution-

aries seized their opportunity and made their own a movement originating in general liberalism. But the liberals would not follow them and turned to the conservatives to preserve what remained of order and authority. By a law of 1918, aliens coming within certain classifications could be forbidden to land, and those already here and under any of these classifications could be deported. Raids conducted by the Department of Justice resulted in the detention of a number of aliens. The safeguards of the Constitution which extend to aliens resident here were undoubtedly set aside. It was regarded by lawyers as a violation of the "due process of law" clause of the Constitution. In a word, persons who, for the reasons given above, were excluded from citizenship by naturalization, might also be excluded or even deported. It is logical that persons who cannot, for definite reasons, become citizens, might, for the same reasons, be forbidden to acquire a domicile in the United States or even be required to depart. It is the nation's clear right. But the Constitution should not be violated in doing so.

It is difficult to reconcile the conflict between the liberty of the individual and the authority of the state, especially in great crises. Sometimes the lesser liberty must be sacrificed for what the majority deems a greater liberty. Indeed, the Americanization process may be carried too far and the state may abuse its power in critical times by arbitrary acts. But these efforts are not devoted to the development of a cult of state and a cult of power; rather, they are efforts to preserve a system which has, in the main, brought order, peace, and happiness to those who have elected to live under it. The system can only be the result of their election, and its endurance is deemed essential not to itself but to the good life which it affords.

CHAPTER XIII

BOLSHEVISM

Bolshevism, regarded in many quarters as the arch-enemy of nationalism and of the typical modern nation-state, is in some of its aspects one of the most nationalistic of modern movements. Its national character is attested by its control of the government of Russia. It requires analysis and some reference to Russia's past.

The first people settling in Russia were the Slavs. They first lived along the south and west shores of the Baltic. They moved steadily toward the Balkans. The Norsemen pushed south, joined the Slavs, and fused their interests, races, and institutions. There was a crude form of government even in these early days. The popular assembly was known as the Vietche. The head of the tribe and the military leader was the Prince. He was supported by the two classes most benefiting from his rule—the army and the nobility. The ancient faith was based on impressive rites and ceremonies. Christianity was at length introduced by Prince Vladimir. So vast an area and so many tribes prevented any unification and much uniformity. There were substantial differences as to language, culture, and habits. In the north the Great Russian stock prevailed, while in the south the Ukranians or Little Russians held sway. The Mongols invaded the country in the thirteenth century. Tribute was levied, and military domination stifled Russian social, religious, and economic institutions. During the Middle Ages, Russia came into its own. Beginning with Moscow, Russian communities grew in power until there was established a state consciousness. This was achieved politically by the enthronement of the Romanoff dynasty. Stratifications of society were the aristocracy, the government bureaucracy, the merchant and trading classes, the peasants, and the serfs.

The empire, thus beginning, received new impetus and direction under the unique and original Peter the Great. He had new ideas of government which he insisted upon introducing. He conducted successful wars against the Swedes, the Poles, and the Turks. He founded St. Petersburg as the capital of the state. A new army and navy were built. Baltic trade became a Russian monopoly. Thoroughgoing reforms were introduced into the army and the navy, the government, finance, social conditions, local government, and the church.

Russia was a state of great foreign prestige during the nineteenth century. Alexander I won for himself immortal fame as the father of an organized world for the purpose of keeping the peace. While he became a member of the Holy Alliance and his ideals were not adopted, he at least conceived a peace plan which possessed the elements of a successful league of peace. His successors did not have the vision or the opportunity to work out an advanced foreign policy. They came into conflict with the lower classes, and while they won, the conflict sowed seeds of revolution. Nicholas II did not partake of the greatness of Alexander I. He was weak in personality, and weaker in character and conviction. The peasantry and related classes had no day in court. The nobility and the bureaucracy controlled the government. Nicholas had the vision to call the First and Second Hague Conferences. He entered into alliances with France and England which led to the Triple Entente. During his reign a war was fought against Japan in Korea and Manchuria. The war ended with the loss of territory and prestige on the part of Russia in the Far East.

The government was unpopular at home after the defeat by Japan. As is often the case, the failure of an international war made imminent a civil war. Agitation on the part of the oppressed classes resulted in the manifesto of October 1905 and the establishment of the duma, a repre-

sentative assembly. Concessions are sometimes too tardy to arrest an open revolt. The ones granted were regarded as too limited. Education spread discontent. Western liberal ideas spread throughout the country. The example of the liberal powers of Western Europe and America played their part. But Russia continued to play her usual rôle in foreign relations. In 1907 she came to an agreement with Great Britain with respect to Persia and Afghanistan. She also concluded an alliance with France and sold her government bonds to the French peasants. She was a definite member of the Triple Entente, which stood as a wall against the Triple Alliance, made up of Germany, Austria, and Italy. She continued her historic rôle of protector of the Slavs in the Balkans, and in this capacity came into conflict with the aims of Turkey, Germany, and Austria.

When the crisis of 1914 came, Russia supported Serbia against the demands of Austria. She was compelled either to do this or to abandon her position as the guardian of Slavic interests. Germany supported Austria. Russia mobilized her troops. The war began, whatever the cause and whoever was to blame. Her campaigns on the eastern front in 1915 and 1916 were spirited and effective.

But forces within were at work against the government. There was great discontent with the war and a great social unrest. The people did not have enough to eat and had to starve for the sake of a victory in war. Bread riots and war burdens brought disaster to the government. The war aims of the government were gradually disclosed, and the people found little to sympathize with in them. The war-weary people began to clamor for rest. The nefarious schemes of the priest, Rasputin, became known. German propaganda engulfed the court and some of the people. The Social Democrats, critical of these conditions, were arrested. These things led, step by step, to the Revolution. In the face of these conditions, the court

tried to continue itself as an institution, though admitting the need of change in its personnel. The Czar abdicated in favor of his brother, the Grand Duke Michael, naming him his successor. The duma set up a provisional government, responsible to the titular sovereign, with Kerensky at the head. This government was recognized by the United States, and a mission was sent under Elihu Root to save it from disruption. A loan was extended for this purpose. But Root failed to achieve his object. The business interests and the professional classes sought a constitutional government as in the United States. But the Social Democrats and the Social Revolutionists wanted no halfway measures. Nothing short of complete revolution, social and economic, would do. So the proletariat came into power.

The aims of the Bolshevists were clear. Also, their means of achieving them were direct. In the first place, they wanted to make peace with the Teutonic powers. This was done by the treaties of Brest-Litovsk. Again, they wanted to achieve the social and economic revolution. By a series of decrees, the government, industry, and agriculture were transferred to the workers. Finally, they sought to establish a government based on the scheme of soviets. The objective culminated in the Fifth All-Russian Congress of Soviets, held at Moscow, July 10, 1918. The constitution which issued from this body was Bolshevist in extreme degree. It guaranteed rights to the laboring people only. They were given the rights of freedom of expression, of religion, of united action, of assembly, of organization, and of education. Others were denied rights. All able-bodied men were required to work. The constitution gave more attention to the public policy of the state than to the structure of government. Private ownership in land was abolished. All power was vested in the working classes, united in urban and rural soviets.

Only so-called "producers" may vote or hold office in Soviet Russia. All persons over eighteen years of age who

have gained a competency by means of productive labor or who do housework which permits others to work, all peasants and agricultural laborers who employ no help in their profit-making, also persons in the army and navy, and persons in any of these classes who have lost their capacity to work, have the franchise. Excluded classes are: persons who employ labor for profit; persons living on profits from incomes without working; merchants, tradesmen, and brokers; monks and the clergy; employees and agents of the former police and the old gendarme corps.

The geographical basis of representation was displaced by an occupational basis in all assemblies, with the exception of the All-Russian Congress of Soviets. There was thus established, not a democracy, but a dictatorship. Power taken by one group was seized by another. The changes enthroned a dictatorship of the working class. All other classes are regarded as parasites, exploiting the people, who should govern. Hence they are excluded. The essence of the communist organization is that of exclusion. The system of government is a complicated one which is difficult to understand. The factories and workshops elect delegates to a city soviet. The villages and rural sections elect delegates to the district soviet. The district soviet elects to the county soviet, and the county to the regional soviet. The city soviet elects directly to the regional soviet. The city and district soviets elect to the provincial soviet. Finally, the city, provincial, and regional soviets elect to the All-Russian Congress of Soviets. Such a system would break down of its weight, were it not for the single political party in control—the Communists. It is a system which can thrive on no political opposition. There is no division of governmental power, scientific or otherwise. All sorts of bodies are entrusted with all sorts of power. It is a system which prevents the control of the government by the people. It is nothing but a complicated process of in-

direction which thwarts popular government and majority rule. Only the rural and urban soviets are elected directly. There is no other real contact with the people. By the time it reaches the central authority, it has passed through so many channels that the workers can no longer claim it. Moreover it is a system which, after all, does not serve the interests of the special class which it is designed to aid. The legally authorized executive is the Central Executive Committee, elected by the All-Russian Congress. It has all power between the sessions of the Congress. The real executive is the Council of People's Commissars, appointed by the committee and responsible to it. There is a president, but each commissar is head of a department. The decrees of the Council are binding throughout Russian territory, and must be enforced.

The constitution of 1918 did not suit all the Russian groups, so a separatist movement resulted in a number of independent soviets. In 1923 there was established, under a federal constitution, the Union of Socialist Soviet Republics. It includes Russia proper, Ukraine, White Russia, and Transcaucasia. Latvia, Finland, Esthonia, and Lithuania have become independent states. Other Russian territory was incorporated with Turkey, Poland, and Rumania.

What has been the result of this, the boldest of all experiments in government? It is indeed a nationalism of the most restricted and narrowest sort. It is true that the government has achieved a certain stability. There is no other government in sight. There is a single political party, which has exclusive extra-legal control of political affairs. The Red Army of more than half a million men not only guards against aggression from without, but against any possible insurrection from within. Of the total population of one hundred and forty million, one hundred and twelve million, or eighty per cent of the people, are peasants, who are in a large sense without the

pale of government and party affairs. They acquiesce in the present arrangement. It cannot be said to be a government of, for, or by them. The industrial and agricultural workers are the only articulate members of the Russian Soviet state. No mention need be made here of the expressly excluded classes. The most effective group is the million constituting the Communist Party. Capping the arch is the political bureau of seven members, dominating state policy and administration.

The economic policy of the new government included both industry and agriculture. Poverty continues as before, and will continue for generations. As in other countries of Europe, pre-war production has almost been reached, in quantity and in value. Divisions of land have taken place. The public debt is less. There has been some stabilization of Russian currency. Foreign capital, for obvious reasons, cannot now be obtained. There is admittedly a conflict between the rival systems of capitalism and socialism. The state controls eighty per cent of the production, the rest being in private hands. The railroads, credit, and foreign trade are virtually government monopolies. A majority of the nation's capital and industry have been socialized. But the minority of private capital and control has been able to produce better goods at a cheaper rate. Some sort of prosperity will result under the system. But the recovery of private industry and capital, and the present recognition of its immediate superiority as a system which brings results, may be the beginning of an entente between the soviet government and the very system which they aim to uproot.

The government has had to alter its rigid economic policies. Russian soil was completely vested in the state. But no attempt has been made to dispossess the peasants or to disturb the right of inheritance. The right to alienate, however, does not exist. The factories were nationalized and were to be operated by representatives of the

soviets. But democracy in industry did not work. The workers, their own masters, did not see fit to discipline themselves. Capital was needed to operate the establishments. Raw materials were needed, and could be furnished only from capitalistic markets and for a price. The workers wanted good currency rather than government script. Production lessened, and food for the workers was not to be had. Soon came the confession of defeat for the unlimited communist economic policy. Then private ownership of factories, under government control, was admitted again; private capital was invited to return; and stores were authorized under government license. Individualism and private control, after all, have been found essential to the economic existence of the Russian people. It is too early to speak of economic well-being, for there is no such thing.

An improved social status has come about for many people in Russia, and of course a greater degree of participation in government affairs by a new and special class. There seems in some quarters to be a consciousness of social status which did not exist before. Yet theoretical equality cannot work out in practice even under this system. The test is whether this new social status carries with it definite economic and moral advantages. The state does attempt to prevent racial discrimination. It has assumed positive social duties and services in behalf of the people. From its very newness, the administration of these social services cannot be perfect, or even efficient. Religious liberty is guaranteed by the constitution. Freedom of worship is presumed to be maintained. But the policy of the Communist Party is against religion in all forms. It is looked upon as one of the forms of oppression which held the people in servitude to the nobility and the army. The State Church was of course open to objection by the Bolshevists. But the communist philosophy is purely materialistic and realistic. Separation between church and

state has been effected, as well as between the church and education. Organizations make direct war on the church. But it has in a measure survived. The peasants will follow the Communist Party in its churchless, godless policy no more than they would follow it in the nationalization of lands and factories. With many, on the other hand, Bolshevist nationalism has become their faith. They support their régime with all the zeal of religious crusaders.

Education of the best sort has not been provided. The eighty per cent of illiteracy of Russia which prevailed under the Czar has perhaps been reduced, owing to the spread of education among the masses. The schools attempt to be embryonic democracies. At first all but the children of workers were excluded from them. In this sense the Communist educational program is a failure. But to the Bolshevists, education does not come first, but last. Politics and maneuvering must be attended to. The education of the youth is relegated to the rear.

Communism as a system still obtains, with its major evils. The excluded classes are still ousted from control and from the franchise. Nationalization of land and of factories is still a policy, even though modified through economic necessity. Criticism of the government, and especially political opposition, is not tolerated. The party philosophy is a gross materialism which is revolting to peoples who live in ordered democratic commonwealths. Then, the Communist Party is based on the theory of force and world revolution. Only its present inability to realize its theories prevents it from doing so.

But what of the future? No one can predict with any certainty. It is altogether possible that compromises and modifications will continue until Russia becomes a democratic state. Her dictatorship may result in a centralized executive power. A representative assembly may follow. Guaranties for all may be forced as a concession for capital and for trade relations. Economic good must be sought

under all systems. But a stabilized economic system requires settled conditions. These in turn require a government which protects the individual in his private rights. Bolshevism may be a great proletarian crusade, destined to usher in the new day, the political system of a world at peace. But it may rather be a temporary manifestation of a tendency which will pass away and which will be displaced by political institutions designed to open the way to the good life for all who have the will and the mind to seek it.

No discussion of Bolshevism is complete without reference to the Third Internationale and the Communist Party. The father of modern socialism, Karl Marx, founded the First Internationale, which began in 1864 as the International Workingmen's Organization. The purpose of the organization was to embrace in its membership all national and subordinate organizations of socialists. It was finally dissolved, but the movement was renewed in 1889 in the form of the Second Internationale. The war brought an end to its activity. Peace brought forth another effort to reconstruct the organization. In 1919 socialists and labor representatives of moderate bent did organize. But the radical socialists would have nothing to do with it. The Russian Communist Party sponsored the organization of the Third Internationale at Moscow. This claims to be the spiritual and actual successor to the movements started by Karl Marx. While it pretends to be the official representative of all revolutionary parties, it is dominated by the Russian Communist Party, and is the vehicle through which that party seeks to disseminate its ideas to the world and would, if the party could make it so, be the agency for setting on foot the "world revolution."

The organization and discipline of this truly revolutionary party are governed by its constitution. To be a member, one must subscribe to the party program, work

in one of its organizations, submit to party decisions, and pay membership dues. New members must have passed a course in political grammar, and must have satisfied certain conditions of admission, which vary according to category, after a period of probation. The first category of probationers includes workers and Red Army soldiers who come from the worker and peasant classes. Members of the first group of this category (industrial workers who are permanently engaged in physical hired labor) must have two recommendations of party members of one year's standing. Members of the second group (non-industrial workers, soldiers from the worker and peasant classes, and hired hands in agriculture) must have two recommendations of members of two years' standing. Admission to members of the second category (peasants, private handicraftsmen who are not exploiting another's labor) requires three recommendations of members of three years' standing. Members of the third category (all others, such as office employees, and the like) must have five recommendations of members of five years' standing. Young people under twenty are admitted only through the *Komsomol,* the young people's branch of the party. Members who propose probationers are responsible for their nominations and may be excluded from the party if the new members prove to be "unworthy." A question of exclusion must be raised at the general meeting of the organization to which the person belongs and must be approved by the district control commission. All resolutions of exclusion must be published in the party journals, with statements of the reasons for exclusion. All candidates for membership must pass through the probationary period, which varies according to the categories of admission to membership. For the first category, the waiting period is six months; for the second, one year; for the third, two years.

The party is said to be organized on the "directive principle" of "democratic centralization," according to terri-

torial authority. All party organizations are autonomous as regards the settlement of local questions. The supreme directive organ of each organization is the general meeting, conference, or congress, which elects a committee to act as the executive organ and to administer local party affairs. The same scheme of organization and control obtains in all party units, beginning with the conferences and the committee of the Union of Soviet Socialist Republics. Then follow the conferences and committees of the regions, provinces, districts, counties, and villages (townships) or cities (precincts). The base of the party organization is the party nucleus. It is confirmed by a county, precinct, or district committee, and must have at least three members. The nucleus joins the workers and the peasant mass with the directive organ of one particular place. According to the party constitution, its duties are: (1) to carry the party rallying cries and decisions to the masses; (2) to recruit and educate new members; (3) to assist local committees in their organizing and propagandist work; and (4) to participate in the economic and political life of the country.

To consolidate party unity and authority, to recruit the best people for party membership, to aid in party discipline, and to carry through the party program, control commissions are elected by the general party congress, and by the conferences of regions, territories, provinces, and districts. The commissions must submit reports to the organ which elected them. Control commissions must have their decisions accepted by the corresponding party committee before they are valid. But the party committee cannot annul them. In case of conflict, a joint meeting of the two bodies attempts to resolve it. Where an agreement cannot be reached, the corresponding party conference, a higher control commission, or the party congress may be appealed to.

Provision is made for the organization of the party

within the Red Army. This work is carried on by the political department of the Red Army, which, for purposes of the party, becomes the military department of the party's central committee.

The strongest party discipline is enjoined, as "the first obligation of all party members and all party organizations." For the non-fulfillment of party orders from above, and for other breaches of discipline, a party organization must be subject either to censure, supervision by a temporary committee, or dissolution; an individual may be merely reproved, publicly censured, excluded temporarily from the party privileges and work, excluded from the party, or totally excluded, with his case referred to the administrative and judicial authorities.

Financial resources consist of membership dues, subsidies from the higher party organizations, and other receipts. The four categories of paying members contribute, respectively, the following percentages of their wages: half of 1 per cent, 1 per cent, 2 per cent, and 3 per cent. The peasants, who receive an indefinite income, have their dues set by local provincial committees. The pensioned and the unemployed are exempt from party dues. Persons three months in arrears are considered as having left the party.

Arrangement is made for party organizations within non-party organizations, such as trade-unions, where there are at least three members of the party. These are called "fractions."

From the foregoing analysis of the Communist Party constitution we are enabled to draw certain conclusions. In the first place, the party organization is coextensive with the organization of the Soviet local and central governments. In the second place, in the party as in the nation, several bodies exercise several kinds of power. The conferences, committees, and control commissions seem to be set up against each other. Again, power may be and will

be assumed by the executive organ and the control commissions. Control by the various party conferences or congresses is extremely remote. Further, membership in the party, like citizenship in the state, is made easy for the worker, difficult or impossible for other classes. Moreover, a degree of party discipline is maintained which makes allegiance to party as important as allegiance to country. Control is centralized in the party center, just as government power is consolidated in the Council of People's Commissars. If the party dues are paid as levied, a conservative estimate of the party income is forty million dollars a year. This assumes the proportions of a political tax on people who are least able to pay. To make the identity between party and government complete, there are enrolled about one million members of the Communists, and the personnel of the government leadership and support corresponds in the main with the personnel of the party membership. About two millions are enrolled in the Komsomol. In both the party and the nation, it is contended that the dictatorship of the proletariat and the establishment of a genuine socialist state, in a land where millions are illiterate, must, for some time at least, mean a measure of dictatorship by a few. It is indeed a dictatorship *over* the proletariat—not *of* it.

The Communist Party is not free from conflict. There has been strife within. That this strife has extended to the government shows the complete articulation between party and state. Lenin was an autocratic but masterful ruler. Taking account of the incoherence of Russia, he made government and party into a vast machine which would act his will. Realizing in 1921 that the world revolution was many years ahead and that the peasants must have their grain, he substituted his new economic policy of modified capitalism for militant and absolute communism. With the death of Lenin, in 1923, the administration fell into the hands of Stalin. Trotsky, leading the opposi-

tion, contended that production could be exacted from the peasants by increased taxation and by a higher price charged for manufactured articles. But Stalin held to the position that the peasant must be kept in a good frame of mind and that a good crop would have the effect of placating him more than any government measures. The opposition did not leave the party, nor did they put themselves in a position where expulsion was necessary. This was due, in the first place, to the discipline of the party. It has been fitly described as "the most solid institution in Russia," than which "nothing is more sacred." It is said to be even more important than party policy or dogma. In the second place, both factions are loyal to the party. Stalin did not at the time want to exile, imprison, or expel those who opposed him merely because of party rivalry. He preferred a compromise, and was in a sense loyal to those who had previously led in the Communist movement. On the side of Trotsky and his followers, loyalty was too strong a tie and splitting the party was not then attempted. Of the intensity of this party loyalty it has been written:

> It is impossible to overestimate the *esprit de corps* of the older Communists. For twenty years they have worked, plotted, and suffered together. They are the survivors of a whole generation of ardent revolutionaries who voluntarily sacrificed their youth; thousands were executed; thousands died in prison or exile. All or nearly all forewent pleasure and material well-being. The idea of splitting or even weakening the party they had thus painfully built up was quite foreign to their mentality. Moreover, they could not conceive of a life outside the Communist party—for them that would be worse than the loss of citizenship to a Roman Patrician.[1]

Over a period of four years the Stalin and Trotsky factions contested bitterly for party, and therefore national, leadership. The breach widened rather than healed, and early in 1928, when a rival faction threatened to become a rival party, Trotsky was exiled to Siberia, where he

[1] Walter Duranty, *Current History*, February 1927, p. 712.

has remained, except for a brief sojourn in Russia in October 1928. Even so, what is recorded about party loyalty in Russia remains true.

From the foregoing it is seen that one must understand the Communist Party before one can understand Bolshevism as a nationalist movement. It is equally clear that modifications in government must follow modifications in party. The serious party difference which was bridged temporarily may indicate future differences which may be irreconcilable. Only a single dictatorship of martial law can continue the present unchallenged sway of a single party in a country as large and as diversified as Russia. The party may be compelled to make provision for debate and criticism. Will the defection of some dissatisfied faction in the future lead to the organization of another political party? Will party loyalty be so strong that all elements will remain within the party precincts? Will party discipline continue so strict that they will be compelled to remain? Or will those who dare to oppose be put aside, as Trotsky was? In such an effective and permanent party split seems to lie the only hope of Russia's return to constitutional government.

Whatever may happen next, however, will have to be a step in the direction of facing realities. So long as nations were hermetically sealed within their own boundaries, it was possible for them to pursue stupid and fatal policies to the point of self-destruction. In ancient times, doubtless many a nation went down to its doom simply because it was a closed system, immune to all of the enriching influences of foreign commerce, communication, travel, and the promiscuous interchange of ideas. This cannot happen to modern Russia, although many of her backward peoples seem determined upon such national suicide. Russian leaders know only too well what foreign bankers, scientists, and engineers have to offer them. At the present

moment, the Russian workingmen are passing through an almost adolescent adoration of Henry Ford because he knows how to get results which benefit the factory toiler proportionately more than the capitalist. As international relations widen and deepen, the facts which they reveal to the Russian people will become stronger than doctrines and more fertile than bigotry.

CHAPTER XIV

NATIONALISM IN MEXICO

Another particular country which deserves our attention is Mexico. From 1910 until the present day Mexico has been trying to escape the evils of the Diaz régime. That a new order obtains in Mexico is clear. Just what it is is not so clear. It is necessary only to summarize the grievances of the Mexican people under the Diaz régime. An account of the Revolution would detain us too long. In the first place, the power of Diaz was based on his control of the military forces. The government of Mexico was the army. There was a close articulation between the federal authorities and the state forces. This co-ordination extended to the local government units. In each *partido,* or district, there was a *jefe político,* or chief of police, at the head of the *rurales,* or federal police for the district. The word of the *jefe* was law. His orders came from Mexico City through the state capitals. The *rurales* were used, not for the purpose of protecting the life, liberty, and property of Mexican citizens, but in the main to protect the interests of those who had received favors from Diaz in the form of concessions. Under the *ley fuga* or the law of flight, the rurales might shoot at sight any one fleeing them, on the theory that they were escaping arrest. Then, the units of local government were not autonomous districts but were merely units through which Diaz exercised control over a highly centralized administrative system. The governor of the state, ostensibly elected by the people, was at length virtually appointed by the President of the Republic. He became the servant of the President. Subordinate units of local government found their place in this scheme of control. Again, the constitutional law of Mexico was changed or ignored, with a view to continued Diaz control. The rights of Mexicans became paper rights. The con-

stitution was amended so as to admit of the indefinite re-election of Diaz to office. Political opposition was not tolerated. No positive steps were taken to improve the social or economic status of the masses. Large concessions to foreigners steadily diminished what the natives thought to be their just patrimony. The legal machinery of the nation was set in motion to secure the concessionnaires in their rights. The cry for land was passed by when large areas were delivered over to single holders, native and foreign. The Indians, forming the greater portion of the population of Mexico, not only received no attention from the government in their own behalf but were compelled to contribute to the existing régime. This took the form at times of a sort of enforced labor, of virtual enslavement, and occasionally of the movement of entire Indian groups from their native habitat to the mines, factories, and especially the plantations.

Such a policy of oppression could not continue. In 1910, Francisco Ignacio Madero, a Mexican idealist, contested the Presidency with Diaz on the platform of no re-election (to the Presidency) and the division of land. Diaz imprisoned Madero during the campaign, but released him after the usual "election." Madero concluded that a régime perpetuated by the sword must be ended by the sword, for constitutional methods were closed to all honest contenders for power. He therefore raised an army to achieve his aims. The course of the Revolution is fairly well known. It had the continued support of the masses of Mexico, despite troublesome problems and unfortunate changes of leadership. The refusal of Mr. Wilson to interfere with the Mexicans in working out their problem also contributed to its success. The Revolution at length met with military success. Its ideals are set forth in the Constitution of 1917. The present government is attempting to enforce them and at the same time to respect the rights of aliens who reside or own property there. The

old order has gone. We can with profit examine the ideals and the achievements of the new order.

One of the ideals of the new national movement in Mexico is a fair return and reasonable working conditions for labor. The small wage, the contract system, and the enforced labor of the past justified a change. But what change? Article 123 of the Constitution of 1917 established the eight-hour day and the seven-hour night. Children between the ages of twelve and sixteen work only six hours. There must be one day of rest in the week. Women employees are given special consideration pending and during childbirth. Wages are to be consistent and must be paid in lawful currency. Proper homes must be maintained and health and educational facilities must be provided. An employer who furnishes homes for workers as required by the Constitution can charge a monthly rent equal to only half of one per cent of the assessed value of the living quarters. The right to strike is guaranteed. Lockouts are allowed only in cases of over-production. These measures are to be enforced by boards of conciliation and arbitration appointed by the state governors. The boards are made up of seven members—three representatives of the laborers, three of the employers, and one government representative, who acts as a sort of referee in case of disagreement. Controversies are referred to the arbitrament of these boards.

Labor federations in Mexico are organized according to industries. There are about sixty of them in Mexico now. They are independent of the government and represent the different industries. The textile industry, for example, has about five unions. Each union sends three delegates to the national convention of textile workers. This in turn elects three delegates to the Mexican Regional Confederation of Labor at Mexico City, which is the national organization of the labor interests and which maintains contact with the government. The political ex-

pression of the Regional is the Partido Laborista, or Labor Party. It has worked in close co-operation with the Regional and with the government. The Labor Party was, during the Calles régime, the one unifying force in Mexico. While smaller than other groups in numbers and in economic importance, this group has enjoyed definite policies, intelligent leaders, good organization, and great party activity. Calles, President of Mexico from 1924 to 1928, had the support of the Labor Party. Gil, the new President, elected on an improved basis, is less closely allied to them.

Following the election of President Portes Gil, a serious rift developed between the "Crom" (Regional Confederation of Mexican Laborers) and the new administration. The ninth annual convention of the "Crom" elected as its head Luis Morones, who was forced from the Calles cabinet after the assassination of President-elect Obregón. President Gil denied the charge that members of the "Crom" were persecuted, but he insisted that the right of criticism would be respected, and declined to interfere with meetings and plays having as their object the ridicule of the labor unions. Calles refused the leadership of a newly formed revolutionary party, and referred to Gil as representing "legality and revolution." Reprisals followed in the form of resolutions and resignations, with the result that Gil is now more firmly in the saddle.

It is generally admitted that the control of labor returns and conditions is a matter of Mexican domestic concern. Such regulation is their incontestable right. Mistakes in administering the law have been made which are harmful not only to capital but to the laborers as well. The leaders of the labor movement, imbued with Marxian ideas, have been impractical at times, and have attempted to arrive too soon at an ideal relationship between these classes. Many of them are now having their first share in government work and are consequently inexperienced. An

unreasonable wage may be exacted because of the power of the boards to require it. The government uniformly sides with the laborers, and the employers often feel that the board of conciliation and arbitration is a one-sided affair. The record of awards for the benefit of the employer is almost a barren one. The board of conciliation, working with the government, the labor party, and the confederation, may withhold labor from a factory until all regulations have been complied with. Sometimes levies have been made on employers for money and goods under pain of suspension of their business. The employer must accede to the demand or suffer great financial loss. There is, therefore, much unofficial, non-legal pressure wielded by these boards. While the good of these reforms is recognized, it is also clear that steady employment at a fair wage is a desirable condition in Mexico, for the worker and for the manufacturer. To insure this, there must be an investment of capital and such use of it as will permit a fair profit. It is quite probable that state action will be modified to encourage a return of capital and manufacturing, within the limits of the new program for improved working conditions.

Mexico's greatest problem today concerns the land, and its most cherished ideal is the distribution of land among the people. Under Article 27 of the Constitution of 1917 private property may be expropriated only for a public purpose and then only with indemnification. Provision is made for the division of large estates, the establishment of rural hamlets, and the protection of water rights. Land taken for this purpose is deemed a public utility. Under Anglo-American jurisprudence, a public utility is something which is affected by a public interest and which may, in the public interest, be made subject to public regulation. This doctrine does not extend to the transfer of land from one private owner to one or a number of private owners. Under the Mexican doctrine,

private land may be taken, through the action of the government, for *private* use, for compensation. Under the American doctrine of eminent domain, private land may be taken for a public use only, for compensation. In addition to the division of the large untilled estates, an attempt has been made to return certain lands to the towns, in the form of *ejidos,* which were lands held in common by the people of a town or village. In the course of time, many of the towns and individual owners have parted with their titles, and others have come into possession, often innocent purchasers for value.

A National Agrarian Commission is set up for the purpose of supervising this work from a national point of view. It is made up of the Secretary of Agriculture and Fomento, four others from the Department of Agriculture, and one each from the Departments of War and the Treasury. The National Commission has one representative, called a delegate, in each state, and a *procurador* in each town of agricultural importance. The state commissions are appointed by the state governors, and are made up of a chairman and three others. The state commissions are responsible only to the National Agrarian Commission.

When the people of a town or village want a division of land, they elect an executive committee to petition for it. If the petition is allowed by the governor's commission, then an administrative committee is chosen to aid in the act of distribution. Also the *delegado* and the *procurador* of the National Commission help in this. Should the governor of a state refuse to act, the documents are sent to the National Commission for inspection, with power to act. The governor, in refusing to carry out an administrative decree, must apply for a writ of *amparo.* The soldiers may be called to help in the matter. If there is collusion between the governor of the state and the chief of the military zone not to act, then the farmers must be organized for hostile action.

Besides the national powers granted by the Constitution, and the national agrarian laws and decrees, the states have large powers, and may act first if they so desire. In the United States, the state and federal governments have restricted fields of action, and one may not interfere with the sphere of the other. Under the new Mexican concept, the national government may withhold action until the state speaks, but will act to secure the ends of the Constitution of 1917 if need be. Several of the states have passed agrarian laws. One of the most conservative has been passed by the state of Chihuahua. Its purpose is to limit the amount of land held by any one person; to compel the owner to select, within ninety days of the time the law takes effect, the lands within the prescribed area he desires to keep; and to compel the subdivision and sale of the remainder of the lands. The owner is given six months in which to submit to the governor of the state a plan for the parceling and sale of the surplus land, accompanied by maps and original titles. The penalty for failure to conform is expropriation. The owner is required to pay the taxes until the land is sold, but is prevented from making any use of it. He may have to give up his best lands at any time. Even though the titles may be difficult or even impossible to show, there is no provision for delay. The owner cannot receive more than twice the value of the land fixed for tax purposes. Payments may be made in terms of not more than twenty years and at a maximum interest rate of five per cent. If the purchaser defaults in two annual payments, then the land reverts to the owner but the purchaser must be indemnified for money advanced on the purchase price. The owner need not be indemnified for any loss. He is restricted as to price; he cannot select the purchasers; the purchaser need not give any security or make any payment, even though he be in possession; and, during a two-year period, the purchaser may have a period of grace without any responsibility for the use of

the land. Of course, a law so much in favor of the purchaser must at length be modified by the administrative authorities.

The kind of money received by the owner is important. The national Constitution provides that the amount paid for the expropriated land shall be its assessed value plus ten per cent. Payment may be made in terms of agrarian bonds issued by the state governments and authorized by the Mexican Congress. It takes little reasoning to show that Mexican state agrarian bonds, issued in twenty-eight denominations, are practically worthless even though they are authorized. The state must finance the Indian. But where will it get the money? If the laws are strictly enforced, it will still be confiscation, owing to the form of payment.

The political expression of the land movement is the *Partido Nacional Agarista,* or National Agrarian Party. It is committed to Article 27, the return of the *ejidos,* and the division of estates. The spiritual leader of the party is Emiliano Zapata, the Indian bandit of the state of Morelos, who wrought so much havoc in the city of Cuernavaca and who destroyed the sugar factories of Morelos. Outlawry and the destruction of property resulted from his activity. But he had a notion of the use of the soil by the native, even though he did not have the patience or the inclination to bring it about. His bent was to destroy. His picture is on the walls of the agrarian headquarters in Mexico City. The leader today and the brains of the party is Soto y Gama, a lawyer of the old school, one who believes that land is meant for the benefit of the masses and not for the few. This is after all the only revolutionary party at present in Mexico, and the land problem the only question there. The labor problem affects at best only about half a million men. The land question affects several millions.

This is one of the boldest policies ever attempted by a

government. Several considerations stand in the way of its immediate accomplishment. In the first place, the Church, which after all is the keeper of the consciences of men, is opposed to the policy and teaches definitely against the acquisition of land in this fashion. The governors of certain states, under the domination of conservative interests, may and do refuse to divide the land through state action. A part of the military caste, conservative in character, also oppose the policy and will not execute it where they may be in control. The Cooperatista Party, made up of the conservative interests, gives constant opposition in the Senate and Chamber of Deputies. The people are generally ignorant, and often refuse to accept the land when offered them. The need of adequate credit, agricultural implements, and capital has prevented extended success of the venture. To remedy these conditions, the government has established an agricultural bank, with a number of branches, to extend credit. It has also attempted the provision of irrigation works, and a system of highways and country roads, so that goods may be carried to market. Then, the dispossessed alien protests through his government, either that his land has been seized, or unfairly seized, or that the money he has received in payment is worthless.

The situation is attended with many difficulties. The landlords have many grounds for complaint. But the government will not relinquish its policy. The rights of the masses, however, must be made to square with the laws of production and the minimum rights of property owners.

The conservative interests in Mexico are sometimes called Fascisti. They are made up of (*a*) the *latifundistas* or *hacendados,* who resist Article 27 of the Constitution, the agrarian commissions, the Agrarian Party, and the land policy of the government; (*b*) the industrialists, who resist Article 123 of the Constitution, the Labor Party, and the boards of conciliation and arbitration; and (*c*) the

church, which is against both the labor and the agrarian policies of the government.

The opposition of the church is a formidable weapon in the hands of the Fascisti groups. The influence of the priest at confession is charged by the leaders of the labor party. "Thou shalt not steal" is urged as a higher law than the law of the state. Seventy-five per cent of the women of Mexico are said to be in the church. Christian centers have been established by the priests for the alleged benefit of the people. It reaches the men of the villages through the women. These centers preach a Christian union, based on the principles of humility, Christian obedience, and a hope of reward in a future life. Troubles are represented as stepping-stones to heaven.

These groups, complain the agrarians, have the land, the money, and the good will of the capitalist class. Their women reach the soldiers. One leader, when asked when Mexico would realize her land policy, replied, "When the priests are all dead." The political expression of these three elements is the Cooperatista Party, led at the present time by Prieto Laurens. At times it controls the Chamber of Deputies, and it is often charged with controlling the Supreme Court. Through this party the conservative interests have been able to arrest the government in its arbitrary policies of social reform.

Disputes between Mexico and the United States over the application of the agrarian laws and decrees to American citizens became very acute. The situation was complicated by Secretary Kellogg's charge of Mexican interference in the relations between the United States and Nicaragua. A Mexican gesture of arbitration was much discussed in this country. President Coolidge replied that "confiscation is not an arbitrable question." Mr. Dwight Morrow, a New York banker, was named ambassador to Mexico. His pacific policy, together, it would seem, with the timely visits of Colonel Lindbergh, famed aviator, and

that of Will Rogers, celebrated humorist, greatly relieved the situation. In the background, however, was the fear of the withdrawal of American recognition.

An aim of the Mexican government has been financial reorganization. In the summer of 1923, De la Huerta, the Secretary of Hacienda, and Thomas Lamont of J. P. Morgan & Company entered into the so-called De la Huerta-Lamont agreement. Mr. Lamont represented a committee of bankers who represented the security holders. The agreement provided in the main for the liquidation of the country's debt of five hundred millions plus interest, in default since 1914, of two hundred million dollars. Payment on current interest was to be resumed at once, and a moratorium declared on principal and accrued interest until 1928. Payments were to be made with receipts from the entire oil-exports tax plus a ten per cent tax on gross railway revenues. The railways were to be returned to private hands as soon as it could be done expediently. Payments were not resumed, and the advantages offered under the agreement could not be claimed by Mexico. Upward of seven hundred millions external debt alone faces the republic, not to mention revolutionary claims of the United States and other nations. The security holders took the position that some earnest in the form of interest payments must precede a temporary suspension of obligations, and the bankers took the same view—that something must be paid in current interest before credit could be extended. As a result, Mexico had no foreign capital to work with, and investments were sparingly made. The government rolls were padded with hangers-on to whom the revolution meant a government job and a pay check. With great obligations facing her, and little revenue, Mexico had to practice great economies. It was necessary to resume some payments on the foreign debt. The internal obligations, while pruned down, had to be met. A budget had to be balanced; then, with Mexico on a metallic basis, she was

assured of a sound currency. But this worked hardship on the poorer classes. Severe administrative reorganization cut down expenditures. A Bank of Issue provided a more elastic currency. In one year's time about thirty-five million dollars were saved. With this surplus there was organized the Bank of Mexico and the National Bank of Agricultural Credits. Financial rehabilitation must come, it seems, from the Mexicans themselves, under conditions which are on the whole incompatible with efficiency and economy.

One of the noblest ideals of the Mexican government today is that of popular education. Just as there is a passion to get the peasant on the land, so there is a zeal to educate the masses. This is striking evidence of the fact that the social system of Mexico is striving to go on to better things, not to stay where it is or merely to return to normalcy. The ideal is to share with the masses that culture which hitherto has been the privilege only of the few. A campaign against illiteracy was started by enlisting the services of volunteer teachers, each of whom was asked to instruct ten illiterate persons in reading and writing. In one year fifty thousand were taught to read and write. Educational mission centers are established in small communities, taught by volunteers, who remain for four or five months. This has helped to unify a heterogeneous group scattered over a wide territory. Efforts have been made to send traveling libraries, made up of from fifty to ten thousand volumes, to places where they are needed. In some cases they have had to be sent on mule-back. All this has helped to spread the thirst for knowledge. Trade schools and technical schools have been established for those needing instruction in these lines. Primary and secondary education has been raised to a higher level.

Cultural education is not neglected. The national department of education seeks to develop the untrained artistic and literary talent of the Mexicans. Motion pictures,

choruses for songs, and lectures on civics and hygiene have helped in the general problem of adult education. Mexican scenery and architecture make good themes for drawing and painting. A taste for Latin-American literature has been developed. Clinics and free meals for needy children have been established in the larger cities. While the National University serves a useful purpose, many feel that regional universities should be established in the East, the North, and the West. The government seeks also to promote Pan-American brotherhood through an exchange of teachers and students with the states of South America, and through summer schools maintained for American teachers. As the most effective means to these ends, there has been established the Department of Public Education, which reached its highest standard of idealism under the brilliant administration of Dr. José Vasconcelos.

One of the aims of the present régime in Mexico is to restrict the activities of the church within what is deemed by the government to be its proper function. The Mexican Constitution of 1917 contains clauses which attempt to regulate the activities of the church and its officers. All ecclesiastical property is vested in the state. While religious societies may hold services and retain their properties, it is a matter of sufferance and not one of right. All political activity on the part of churches or religious orders is forbidden. Church services must be held only in buildings set apart for that purpose. It is also provided that only Mexican citizens may conduct religious exercises or services. Under these provisions, some churches have been closed, some property has been seized for purposes of nationalization, papal legates and other ecclesiastical officials have been excluded from the country, and the church has been punished in other ways for alleged interference with the social and reform policies of the government.

The point of view of the government is made clear from time to time, although it is a complicated problem.

The Mexicans point out that after four centuries of Catholic civilization, they are still illiterate and landless. Next to them is the American Republic, where there is much religious activity but an absolute separation between church and state and virtually no connection between religion and politics. It is urged that the Catholic clergy in the days of the conquest were moved by the same selfish motives as the soldiers, and that, in all this time, there has been little or no substantial change toward the average Mexican. While persons came to the American Colonies to escape persecution, Indians in Mexico were persecuted if they did not embrace the Catholic faith. The lands belonging to the Indians were given by royal grant to the king's favorites and the clergy. Many of these grants persist today, in the hands of layman and clergy alike. The church started as an integral part of the political institutions of the country, and so continued after the days of independence. The secularization of ecclesiastical property, it is contended, is an ideal which the Mexicans have been striving to realize for many years. The independence movement almost threatened the power of the church, but the anti-Spanish feeling then predominated. Vice-President Farias advocated limitations on the power of the church in 1830, but nothing was done. Benito Juárez was the great leader of the masses against the church. Through his inspiration the Constitution of 1857 separated church and state, nationalized church property, abolished special clerical privileges, dissolved monastic orders, and retired the officers of the church from authority in civil matters. Madero, Carranza, Obregón, and Calles are said merely to have set in motion an ideal which has long burned in the Mexican breast.

It is also contended that the Catholic Church in Mexico takes its orders from the Vatican; that the church as an institution does not serve nor does it intend to serve Mexico or its people; and that the influence of the church,

through its priests, is definitely against the realization of the government's economic and social policies, especially its land and subsoil policies. President Calles was authority for the statement that Mexicans own only one-third of the national wealth, and that of this amount sixty per cent is in the hands of Catholic priests or institutions or orders of the Catholic Church. For this reason, declared the President, "one can understand why we always have rebellions on the part of the Catholic clergy, who fear at every moment of the struggle to lose their main strength: the millions that they have accumulated against the definite and express provisions of the Fundamental Charter of our country." The President insisted that there is no real religious problem in Mexico, in the sense that there is no persecution of religious creeds, or opposition on the part of the government to the dogmas or practices of any religion. He admitted that "the Constitution of Mexico has provisions that the Catholic high clergy consider incompatible with their constant and illegitimate intervention in politics and questions of state, or with their holding economic strength as a means of spiritual influence and a principal factor of domination of a material order." But until the clergy can effect an amendment to the Constitution, the government will enforce the constitutional provisions.

The rejoinder of the church is as bold and as categorical as the government's charges. It contends that the first churchmen, far from exploiting the Indian, protected him, at times against the civil and the military authority. Such education as he could profit by was given him. The church has, it is asserted, a long record of social, health, educational, and welfare effort to its credit, which is open to the examination of those who care to be convinced. This was in addition to its first business, the conversion of the native and spiritual ministration after conversion. The clergy did, in keeping with the practice of the day, accept grants

of land from Spanish authorities. It has been used in the main for religious purposes and for the support of those whose lives are devoted to the religious work. If the original grant to the clergy was wrong, yet it was an act of the then sovereign body, and, being a vesting of private rights, is binding on succeeding governments. Wholesale confiscation of church property does not repair the initial wrong. The passing of time has confirmed the titles, and sudden revolutionary politics cannot work to divest them without some redress. The clergy denies its alleged political activities, but openly urges its right to contend, through lawful sources and by constitutional means, for the protection of its rights against the arbitrary action of the government. High church officials have been expelled from the country, it is charged, for having conducted masses for political effect when only the religious element and motive was present. The Mexican President invited the Mexican Episcopate to petition the national government for such reforms in the Constitution as are deemed necessary. It was pointed out to the President that although the government is representative and democratic in form, the Catholic population of the country is unrepresented. While opposed to some of the policies of the government, the hierarchy expressly limited its petition to the Congress to "the reforms absolutely indispensable for religious liberty and in accord with the universal dictates of conscience." The Chamber of Deputies refused to hear the petition thus invited by the Executive, on the ground that the petitioners did not have the right of petition, having lost their citizenship under Article 37 of the Constitution. On October 2, 1926, the Mexican Episcopate issued a statement denying that its members have lost their citizenship, and declaring that they therefore retain their right to petition the government. While admitting that objections to the Constitution have been presented to the Roman Pontiff, they deny that this act could constitutionally denationalize them.

Moreover, the loss of the right of citizenship and the right of petition in political matters must be passed upon by a competent body, after the interested parties have been heard. The authority of the Chamber in this matter is denied, and a request for reconsideration is made. "We prelates and all the clergy and Mexican Catholic people," declares the statement, "will remain firm and serene, always demanding liberty through legitimate methods." While the church is opposed to the land policy of the government as a matter of ethics and of expediency, it denies any direct interference with the administration of that or other policies. Clearly, it will not teach government doctrines to which it is opposed, nor will it vary its trend of ethical teaching to correspond with the wishes of the government. The following Catholic estimate of the situation reveals how deep-seated is the policy of the church and the grievance it feels:

> It [the Mexican government] is Bolshevik. Its "Constitution" is Bolshevik; the manner in which the "Constitution" has been imposed on the country is Bolshevik. Its agrarianism, as put into effect, is pure Bolshevism. Its sovietization of industries is Bolshevik. Its proscription of religion is Bolshevik. It is Bolshevik in the worst sense of the term; all its acts, all its utterances and documents convict it as such. It is secularism, stateolatry, autocracy, absolutism, unlicensed despotism, radicalism, unconstitutionalism; it is all these in the extreme degree. . . . . There can be no nationhood without patriotism; there can be no patriotism without individual moral responsibility; there can be no individual moral responsibility without religion; and there can be no religion without a church that teaches. Calles would abolish all churches—no specious arguments can get around this fact. To abolish all churches and all religions in Mexico is to abolish moral order, to ruin Mexico, to keep it in a state of turmoil and discord and savage factionalism. That is the state Mexico is in now. And it is in that state, not because of the church but because the work of the church—work which even biased historians recognize and applaud—has been hampered, checked, and destroyed.[1]

[1] Charles Phillips, in *Current History*, November 1926, p. 170.

The dispute between the church and the government, while not now active, is clearly still unsettled. Provisional President Gil declared on December 15, 1928: "I know of no basis for the reports circulated in the United States to the effect that negotiations are proceeding in Mexico for a settlement of the Catholic situation."

The Mexican government is also moved by a desire to reserve its natural resources for its own people, and to prevent so-called concessions to aliens under conditions which carry a special privilege for the foreigner. Accordingly, the Constitution vests the surface of land in the owner but the subsoil and mineral rights in the state. It substitutes the former Latin doctrine, once applied in Mexico, for the common law doctrine of land ownership from the center of the earth to the heavens, which prevailed until the Constitution of 1917. Foreign governments have insisted that these provisions, while within the right of the Mexican government, cannot have a retroactive effect. In other words, they cannot divest persons of their titles, rights, and concessions which were plainly legal at the time of acquisition. The Mexican government has agreed that they shall not be given a retroactive effect, but has taken the position that a right, privilege, or concession must have been acted upon, or reduced to possession by positive acts on the part of the owner, concessionnaire, or holder of the right or privilege. Therefore all claims which have not been acted upon fall within the provisions of the Constitution. This contention is still in a somewhat unsettled state, although the 1928 regulations seem to be satisfactory to the oil companies and to the United States. The Constitution empowers the executive to expel at will anyone who in his judgment interferes with domestic affairs, or whose presence in Mexico is not for the best interests of the nation. The arbitrary use of this provision could easily lead to serious consequences. Foreign corporations doing business in Mexico must agree to do so as Mexican cor-

porations. All aliens, before engaging in business there, must agree not to seek redress for grievances through the diplomatic channels of the government of their allegiance. The government of the United States has refused to recognize this as binding on itself, but American firms must nevertheless agree to the provision. The Constitution provides that no territory can be alienated to a foreign power. Property cannot be owned by foreigners within one hundred kilometers of an international boundary, or within fifty kilometers of the seacoast. These measures inevitably cause conflict with foreign governments. President Calles has admitted that they lead to friction or difficulties with "foreign governments defending the interests of their countrymen who consider themselves affected by our constitutional laws." The Mexican Revolution, he declared, has no axe to grind internationally, but seeks to compel foreign investors to comply with the law. Frictions growing out of what the Mexican government deems to be a free but prudent exercise of Mexican sovereignty can be reconciled by the courts in the light of truth and justice.

What is the purpose or the end of this remarkable national movement? President Calles, quoting Lord Reading, asserted that Mexico seeks to "waive the claims of individual or sectional advantage for the benefit of a common weal." The nationalistic character of the policy is made abundantly clear. The forces of the nation should be directed toward putting "our nationality once for all on solid foundations." The way toward this goal could have been made easier by following a less thorny path. This work of national progress, said the President, is not inspired by selfish motives, pride, or hatred to foreigners. Foreign collaboration is invited, but within the provisions of the Mexican laws and without harm to national interests. In defense of this bold policy of nationalism, the President asserted:

Nevertheless the Executive, with the co-operation of the other two powers of government, and backed by the great mass of the population, has wished and has partly fulfilled its wishes to formulate and perfect, legally, a system of reforms of a just and advanced social tendency, with a strong nationalistic flavor—reforms which will be in the future sources of general organic peace, collective progress, and public wealth, and which mean the adoption of methods and systems designed to secure profit from national resources and to defend equitable national rights. These methods and systems have been adopted by the most civilized nations for the purpose of preserving their political and economic independence and of assuring their economic prosperity and their total development.[1]

When we look at modern Mexico in the light of the newer politics of peace, may we not all agree that she is confronted with a host of problems of peculiar difficulty, some of them rooted in her overwhelmingly Indian population and others resulting from the colossal richness of her natural resources which she is as yet unable to develop? The gravest danger in the Mexican situation arises from the all-too-natural desire of foreign corporations and foreign churches endeavoring to force the country to their own will, thereby aggravating the crudest tendencies toward hostile nationalism and economic radicalism in a people still too young to comprehend in full the politics of peace.

[1] *Foreign Affairs,* October 1926, p. 2.

CHAPTER XV

THE NEW TURKEY

In Turkey, as in Russia and in Mexico, a new order of political life has developed. The Treaty of Sèvres brought Turkish imperialism definitely to an end; the Treaty of Lausanne confirmed Turkish nationalism. The former treaty would have ended the possibilities of nationalism if the Turks had conformed to its provisions. As an empire, Turkey was weak and sickly, under the influence of foreign powers. As a national state, it is throbbing with life and activity. The old imperialism hardly paid. At best it was only a titular suzerainty and one which yielded more grief than benefit. The responsibility for the government of the former non-Turkish territories has been assumed by the League of Nations or by other states. The Treaty of Lausanne abolished the capitulations, recognized Turkish territorial and political integrity, and left her free to develop her economic life along national lines. In 1856, Turkey was admitted to the privileges of European public law. In 1923, she was admitted to that substantial freedom of action which alone makes progress possible.

What men and nations think and do is more important than how they do it. It is therefore my purpose to leave the details of the Turkish revolution to the historian. I shall set forth here the doctrines of the Turks and their leaders and what they have done to realize them.

The philosophy of Turkey today is the philosophy of its leader, Mustapha Kemal. It is revealed in *The Book of Mustapha Kemal,* by Abel Adam. The argument is, in the main, that the mentality of Asia should be displaced by the mentality of Europe. The mentality of Europe is said to be that of this world, and that of Asia of the next world. The living nations are to the West, while to the East there are a series of nations whose rights to live have

not been recognized. While the East takes its logic and mentality from religious books, the Western mentality "sees life with the human eye, and organizes its life accordingly." Turkey has tried a compromise between the two, but the gap cannot be bridged. The Asiatic peoples have deduced their judgments from divine laws, which interfere with one's most private affairs, and which seek to direct all phases of social, economic, commercial, scientific, and administrative activity. This life is ignored through a love, a passion for the next. Islam had not only dictated its God and its religion, but also Arabic social life, Arabic character, and Arabic customs. Islamic philosophy is based on these canons: (1) truth comes from tradition, not reason; (2) life is administered by divine laws which change not, and not through discovery by human experience; (3) this world is temporary, the next permanent; (4) everything depends on destiny; (5) religious tradition must triumph over national life; and (6) absolute allegiance must be given the spiritual head. From this iron "cage" in which Asiatic peoples have been housed, the Turks have been delivered by a healthy nationalism, which means the total rejection of the Asiatic mentality for the European. This modernization could be accomplished only through revolution. The author finds an interesting parallel in the French Revolution, which removed religion from power to a place in society. The result was nationalism. "The French Revolution was for the whole of humanity, but it ended in nationalism." Freedom cannot be allowed to the enemies of the revolution, or it cannot succeed. Therefore there can be no compromise with reactionary movements until the revolution has established itself fully.

European civilization and the Turkish revolution are alike based on three foundations: (1) the rights of man; (2) national culture; (3) national economy or finance. As a man, everyone is free and is born free. He has individual liberty, family life, and freedom in the government. As

an individual one's rights are limited by what he does not wish done to himself by others. These elemental rights are essential to the origin and growth of any civilized nation. But a law of right will accomplish nothing until one has the idea of rights which give birth to it. Life is given in equal measure to man and woman. In family life they have equal rights, marriage being an association which unites their rights equally and divorce a cancellation of that association. Freedom in government is democracy in its essence. The interests of the public and of the individual are compatible, even identical. European civilization is based on national culture—on the principle of nationalism. Turkey must nationalize herself. The recognition of others' rights, or the show of mercy or aid, is not a part of European thinking. Turkey must attain this degree of disregard for others and exclusive solicitude for herself. Moreover, the lever of modern civilization is national economy. It is found only in the family of European nations, and is the result of European nationality. These nations have organized themselves for economic control, even of raw materials in foreign lands. "The European civilization is this organization. . . . . It is not important for us to know whether it is civilized or barbarous. Human life is such at the present time. The duty of Turkey is to enter this family and to establish equally Turkish rights, Turkish culture, and Turkish economy based on many crafts. Life is logical and tragic, but it is plain." Thus, instead of being admitted to the privileges of an artificial legal system, as in 1856, Turkey is today demanding a place in the European system based on a studied attempt to approach the principles and organization of that system.

What has Turkey done to realize these ideals? Her watchword became "democratization and secularization." To achieve this condition, two things were essential: to scrap her six-hundred-year-old monarchical form of government, and to separate church and state. This has been

done by the establishment of the republic and the abolition of the caliphate. The New Turkey made war against not only her foreign enemies but also the Palace and the Porte, which had joined them. On October 29, 1923, the Grand National Assembly voted unanimously to establish a republic. The Angora, or Turkish National State, founded in 1919 by Mustapha Kemal Pasha, has become the Turkish Republic. In 1920 the National Assembly set forth its independence of foreign control in its famous "National Pact," which insisted on complete independence without financial or military control. At the same time the Assembly passed the "Law of Fundamental Organization." Under it sovereignty belongs to the nation. It is vested in one chamber of deputies chosen by manhood suffrage for a period of two years. The seat of the government is Angora. It has the power to declare war and peace and to make treaties. Ministers are chosen by the Assembly and possess both executive and legislative authority. The President of the Assembly had no special powers under the Fundamental Law, but he has, by reason of his personality, been able to dominate the situation. This Law or Constitution was amended upon the establishment of the Republic. The President of the Republic, during the term of the Assembly, is vested with executive power. He is chosen by the Assembly. He is aided by a Prime Minister and a cabinet named by himself from the Assembly, but approved by it. Executive power is thus increased, and during the legislative recess the President and his ministers are supreme. Democracy is regarded as the best form of government by the Turks now in control. They can live happily and well under a constitutional régime like any other nation. It may be too soon for them to appreciate and to use wisely all the liberal features of the new constitution.

Moreover, a political leadership in the form of a limited dictatorship may be necessary for a time. Mustapha

Kemal Pasha, the President, is admittedly a *de facto* dictator of the country. But he is still the *de jure* President. The constitution has not been set aside. He has merely capitalized his personality and has used the positive powers vested in him. The Assembly may, if it chooses, elect another President. He is President in the same sense that Roosevelt and Wilson were American Presidents, and in the same sense that Lloyd George was British war premier. The Turkish people want strong and even personal leadership. In this they are not so different from the American people. There is not the constitutional arrangement for the division of powers of government which obtains in the United States. But for the present a union of powers seems necessary. Nor is there an opportunity of appeal to the country as in the parliamentary countries. But parliamentary government in Europe is not all it should be, and the Turks may be working out a new type, in between the American doctrine of the separation of powers and the European doctrine of the union of powers, which the older democracies may watch with profit.

The New Turkey has two points of view in its program of education. One is to furnish education for the masses, as resources and opportunity permit. The other is to remove foreign monopoly in the field of education. The new government realizes that progress along national lines depends on the teaching of ideas and that this must be the mission of the republic. The minority schools and most of the foreign schools seem open to the objection that they are under the control of religious organizations, that they have certain political objectives, and that they are a source of irritation to the state. The unit of school and religious administration of the non-Moslem peoples is the *millet,* and under this system these communities have been able to build up their own systems of education, with no regard for Turkish educational progress and with little interest in its educational policy. Under the capitulations, foreign

states were privileged to build up extensive educational systems within Turkey. The French, the English, and the Americans have had leading parts in foreign school development. The French have organized a number of common schools. The United States has made the greatest contribution in the field of higher education. The Treaty of Lausanne did not contain provisions defining the status of foreign schools. The new government has, by decree, decided that students under fifteen years of age must attend Turkish schools and that foreign schools must offer Turkish history and geography under Turkish instructors. The American colleges in the Near East have complied with these regulations in the main, and are now open. These colleges have recently combined their financial and administrative work in a joint office at New York City under a single head. A joint administrative committee is working on the enlargement of their resources. Robert College, probably the best known, has about seven hundred students representing twenty-two nationalities, of which over half are Turks. The Constantinople Woman's College has about four hundred students; the College of Smyrna, three hundred; the Sofia American Schools maintain separate institutions for the sexes. Other Near-Eastern schools are Athens College, in Greece, and the American University at Cairo.

While there has been a government system of schools, there has been no government system of education. There is a Minister of Public Instruction, who is the head of education in the state. The state aids all Turkish schools. There is provided an elementary course of lower and higher primary studies, a high school course of from five to seven years, and college and university training. The details of the system are unimportant, as it is not well or generally administered. The new government aspires to an efficient system of education within the reach of all, but little has yet been done.

The new government has made good its aim to emancipate the Turkish woman. Man and woman are regarded as on a plane of equality. The domestic relation may be easily made and easily severed, and the act must be voluntary. Polygamy and the harem have been abolished. Monogamy has long been a practice of many Turks of the upper classes. The Turks of the agricultural classes practiced polygamy for economic reasons, for having many wives and children increased the Turk's planting and harvesting capacity. Education for women is receiving more and more attention. While they have political rights, they do little with them other than vote. The old conservative apparel of women has been discarded for a more modern type of costume. The aims of those who champion women's rights are: to transform their outdoor costume; to modify the rules of marriage; to educate mothers in home-making and modern pedagogy; to initiate Turkish women into modern society; to improve their economic condition through training for work; and to provide schools for women. This program is in its infancy, but it is under way. Women are proving to be excellent workers in charitable institutions, and have successfully filled many government positions vacated by men after years of controversy. Their chief interest seems to be in the home, in education, and in social culture.

The new Turkey, as a national entity, faces a difficult problem in the treatment of her minorities. She lost the major part of her non-Moslem populations as a result of the war. But the remaining minorities constitute a sufficient problem. Turkey was compelled to sign the minorities treaties, which guaranteed linguistic, racial, and religious rights to minorities groups. These treaties were confirmed by the Treaty of Lausanne.[1] Moreover, complete protection of life and liberty is guaranteed to all

[1] The American Senate refused to ratify the Turco-American Treaty of Lausanne.

Turkish inhabitants without distinction of birth, nationality, language, race, or religion. Non-Moslem minorities have freedom of movement, equality before the law, religious liberty, and language rights, just as do Turkish citizens. The leading minorities groups in Turkey are the Armenians, the Jews, and the Greeks. Points of friction will inevitably arise over the treatment of minorities. The government is determined to realize its nationalistic program. Minorities which oppose this policy would of course be suppressed. But Turkish persecution of Christian communities has in the main stopped, and the clauses of the Treaty of Lausanne seem to be in effect. Naturally, the minorities do not like the policy of the government. Greece and Turkey have made reciprocal arrangements for the peaceful exchange of nationals.

Space forbids a discussion of the economic policies of the government, the policies of concessions, agriculture, and the development of natural resources. But one of the cardinal principles of the revolution is to protect and preserve the economic freedom and independence of the country. She has been on her own resources, and has been unable to finance the undertakings which she has had in mind. The European nations have little surplus capital, and the conditions of a restored trade with Turkey seem to carry the condition of contracts which are expensive to the Turks and which bargain away some of their economic freedom. But the republic is determined, if possible, not to be forced into a policy of indiscriminate foreign concessions merely for the sake of capital. The capacity of the nation in wealth is potential rather than real. Natives lack the necessary training for financial and economic reorganization. The prejudice against the use of foreign experts has delayed this necessary process.

The abolition of the capitulations need be mentioned only as a significant step in the recognition of Turkey's jurisdictional sovereignty. It was the most important step

in the admission of Turkey to the comity of modern nation-states. This is now an institution of the past. Of more importance is Turkey's new system of laws and courts, through which she intends to keep her pledge of a faithful administration of justice to all persons living or sojourning within her borders. Under the old system five systems of justice competed with each other. These were the Consular Courts, the Commercial Courts, the Turkish Civil and Criminal Courts, the Turkish Religious Courts, and the Non-Moslem Religious Courts. For this disorganized method there has been substituted a single system of courts, including (1) magistrates' courts, (2) trial courts for civil cases and misdemeanors, (3) criminal courts for the more serious crimes, and (4) the court of cassation or court of appeal on legal points. The law codes are undergoing thorough revision. The old legal systems have followed the old court system. A civil code was adopted on the order of the Swiss Civil Code on October 4, 1926. The Swiss model was taken for its comparative newness, its democratic character, and its applicability to a state of divergent nationalities. The commercial code will follow that of Germany, and the penal code that of Italy. The complete revision of the codes of law along western lines is now in sight.

The political program of New Turkey seems reasonable and logical, and should adapt itself easily enough to the political system required for a peaceful world.

CHAPTER XVI

FASCISM

The Fascisti movement in Italy must likewise be treated here, as a political system and as a political doctrine. Mussolini has brought to the movement something of the doctrines of Mazzini, and the craftiness of Machiavelli. But the political leadership of Mussolini is not under inspection. I shall examine briefly the doctrines of Mazzini, the father of the theory of modern Italian nationalism. To him nationalism was of the spirit, not an end in itself. The individual and the state had duties alike—positive duties, which the state, merely because of its artificial and corporate character, could not refuse to perform. Countries were the workshops of humanity, and their lives were merely parts of the general scheme of Providence. In Russia, Austria, and Turkey, he saw peoples living together by force and striving to escape their allegiance as if it were a yoke. States should, as far as possible, be coextensive with nationalities. While recognizing the unifying influences of race, literature, and language, Mazzini asserted popular will to be the basis of nationality. But as nationalism must be known by its fruits, he admonished: "Let country be incarnated in each one of you; let each of you so act that in yourselves men may respect and love your country." No nation can live unto itself. He hated the monopolist, the usurping nation which saw in its own strength only the weakness and poverty of others. But nations must at times interfere in foreign affairs. Good principles, like independence and free institutions, must be defended and evil principles attacked, even though this leads to war. Peace would come when the empires released their reluctant minorities. The only peace would be that of a United States of Europe, a "republican alliance," based on an association of national states. Mazzini's nationalism

was a positive spiritual force, which must act, but for the good and under the moral law. His views as to the reorganization of Austria, Russia, and Turkey on the democratic, nationalistic principle, have been confirmed.

What are the doctrines of Fascism? What are the different rods of the fasces? In the first place, Fascism is extremely *nationalistic.* On that point, we have both the word and the deeds of Mussolini. Fascism began as a party. "We wish to make the nation Fascist," said Mussolini, "so that tomorrow, Italian and Fascist, as practically at present Italian and Catholic, may mean the same thing." Fascism was to be regarded not as a party only but as a nation itself. The nation was emphasized as the superior, the *summum bonum,* the party as the means to that end. "May every faction perish, including my own, so that the nation may live."

In the second place, Fascism is *anti-parliamentary.* Mussolini, upon coming into power, announced that he would be glad to rule with the support of the Chamber of Deputies, but, with or without that support, he would rule. There had been in the past, he said, parliamentary programs without end, but no progress. It was his duty to restore the other branches of the government to their true places in the constitutional system, and to destroy the parliamentary dictatorship of the Chamber of Deputies, with its delay, its irresponsibility, and its perpetual crises and changing ministries.

Again, Fascism is *militaristic,* and espouses violence when that is necessary to advance its cause. The movement began as a semi-military movement, which with the passing of time gained more physical power than the state was at the time able to exercise. Its present power is based not alone on the army but on the militia and on temporary militia bands which are called into the occasional service of the government. In July 1922, a few months before his assumption of power, Mussolini announced: "Fascism is

on the point of solving the problem that troubles the nation. It will shortly say whether it intends to be a legitimate party or an insurrectional one. We have in the country large forces, numerous, organized, disciplined. If this crisis should produce a reactionary, anti-Fascist government, we, bear this well in mind, will act with the greatest energy; we shall rise with inflexible severity."

Fascism is *devoted to the monarchy.* It is probable that the kingship as an institution and the king as a person, were saved by the designation of Mussolini as Prime Minister. This is what Mussolini told the Chamber of Deputies. The Fascisti realize the unifying influence of the dynastic order, and realize that their way is made easy by an entente not only with the king but also with those in Italy devoted to royalty for any reason. Officers of the king's army have been made the heads of the militia. Fascisti militia have taken the oath of allegiance to the king. It is also true that many who now follow Mussolini or acquiesce in his rule might not do so should he make war on the Crown.

Fascism also *upholds the Catholic Church.*[1] It seeks to maintain the most cordial relations between Quirinal and Vatican and to remove past causes of friction. Doubtless much of this is expedient. Such of it as comes from conviction must entail a reversal of attitude on the part of the Duce.

Fascism stands for *individualism and the reward of individual effort,* as against class monopoly, class rule, or class favoritism. It is not the business of the state to go into business, but to regulate it and to make conditions which are fair and open to all and suitable to individual activity. It should also be to the advantage of the con-

[1] By a recently published agreement, the feud between the Church and the government which has persisted since 1871 has been terminated. The Papacy reappears as an international person, with certain rights of territory, negotiation, representation, and jurisdiction.

sumer, and should embrace the fields of commerce, industry, agriculture, and economic life. The state must not be banker, dealer, manufacturer, or co-operative. It must not give doles to the workingmen or special contracts or concessions to the manufacturer or employer. The state will find business enough in the creation of fair and satisfactory conditions of work and labor for its citizens. But in this regulatory function the state must be supreme and must not be turned from its even course by any interest not its own. Energy, work, and discipline were to be the watchwords of the state's economic life. People must work. They must earn what they get. No one can claim something for nothing. Fascism has its own special definition of what is liberty. It does not recognize as legitimate or even tolerable all sorts of political propaganda. Doctrines and movements against the institutions and principles which Fascism is designed to protect will not be permitted. Those to be protected include the state church, the Crown, the army, the family, private property, the sovereignty of the state, and individual initiative.

Fascism stands for a *system of order*. This is true, even if the goal toward orderliness lies through a disorderly channel. While violence has been used against a certain class, ordinary police protection, the enforcement of law, the sanctity of property and of contracts, all virtually non-existent under the Facta ministry, have been maintained since Mussolini has come into power.

Finally, Fascism is *imperialistic*. Even before he came into power Mussolini praised the creation of a great class of warriors, ever ready to die. Inventors, judges, captains of industry, explorers, and governors, great in their own right, are included in this caste of supermen. "It is by means of this methodical selection that great categories of men are created, who, in their turn, create empires. The goal is always that, Empire. To found a city, to discover a colony, to create an empire, these are the prodigies of the

human spirit. An empire is not necessarily territorial. It may be political, economic, or spiritual."

How this has been done is known to all. On the credit side there is much to be recorded for Fascism. Action has been substituted for parliamentary inaction. Order of a kind has displaced rioting. Interference with life and property has been stopped. Discipline and work have taken the places of idleness and political scheming. National pride has been substituted for political competition.

But in so doing, a dictatorship has been established. Parliamentary changes have been made to make the control of the Fascisti ministry complete. Minorities are to be repressed, for Fascism must become the state. The constitutional system is being changed so as to prevent criticism or obstruction through legal means. Freedom of speech is much curtailed. The press is censored so that criticisms of the government are virtually colorless and ineffective, if permitted at all. The state has not adequately defined relations between capital and labor, but has favored representatives of both as they dance to the music of the state. Mussolini's state unions have displaced the normal trade unions, and employers must take on these state-protected workers. While industry has resumed, Fascism has furnished no subsequent program or statement of state industrial function such as Mussolini gave upon coming into office. The school system has been remodelled along Fascist lines. Examination is transferred from faculties to the government. Latin has been restored as a prime language study. The portrait of the King and the crucifix have been restored to the walls of the school. The teaching of religion and patriotism is compulsory in the lower schools. Textbooks which glorify Italy, Fascism, and Mussolini are adopted for use. Acts of violence committed by Fascisti against their enemies have gone unpunished. Intimidation is really the process of government which Mussolini knows and understands.

In foreign affairs, Fascism follows a policy of terror against a weaker power. Italy defied Greece in the Corfu dispute, and insisted that the case be referred to the Conference of Ambassadors rather than to the Council of the League of Nations. Mussolini has declared that Italy's veto on the Council shall be used to prevent any interference with her imperialistic plans. He seeks to re-establish the Italian Empire, and to make Italy the mistress of the Mediterranean. He seeks raw materials for a state which is relatively poor in natural resources but rich in population. Moreover, he would not only extend the sway of Italy over foreign shores and colonies but would have Italians living under foreign rule, whether nationalized, domiciled, or sojourners, carry with them, even to the ends of the earth, the doctrines of Fascism and their loyalty to the system. But he has a wholesome fear of power, as do all dictators who exercise it over their subordinates. He therefore does nothing to gain the ill-will of France, England, or the United States.

Outraged Italians may take heart, when they yearn for the return of parliamentary institutions. Dictatorships are like ships which pass in the night and disappear. If the future is as the past, so it will be with Mussolini, and, in part, with his political system. The politics of peace, to be permanent, must be constructed of other materials.

CHAPTER XVII

NATIONALISM: A CRITICAL REVIEW

We are now in a position to make an appraisal of existing nationalism. The notions of sovereignty, independence, and nationalism are undergoing attacks from various quarters at the present time. A growing soviet of state detractors, having no regard for boundary lines and boasting of a new internationalism which shall displace the old nationalism and the so-called nation-state, are letting loose the venom of their vituperation against the only institution which stands resolutely for law and order. Most people are content to work with those who, impatient with worn-out doctrines which hinder international intercourse and which foster distrust and misunderstanding, seek to speed up the acceptance, in letter and in spirit, of a new set of principles for a new day. But mankind has a conservative turn of mind, and prefers to make haste slowly. It has so much at stake that it cannot let go what it has in hand until it sees something of what is ahead. Pluralists, like Laski and Duguit, have set the fashion of hitting at the legal concept of sovereignty. Economist, historian, sociologist, philosopher, religionist, and pacifist now attack the notion of nationalism as if it were responsible for all the ills of the world. Like all such movements, there is a widespread representation of the millenium which will be ushered in should nationalism be destroyed, with little thought as to what should be put in its place. It is the inevitable fate of the reformer to agitate until his reform is adopted and then to be put aside by a seemingly ungrateful public because, so far as a practical working-program is concerned, he comes empty-handed. Our present task, therefore, is to push the pendulum back to the center, rather than to add to the already abundant amount of state abuse.

The leading opponent of nationalism among American

scholars is doubtless Professor C. J. H. Hayes of Columbia University. So trenchant is his style and so convincing his manner of argument that one must be on one's guard and remember that Hayes is not making an impartial analysis but arguing a case. He is not the court but only counsel for the prosecution, believing ardently in the justice of his cause. True, he brings to his task the trained mind, the broad appreciation, and the tolerance of the historian. By a skillful definition of terms, however, he puts these qualities of habit and mind aside for the moment and analyzes nationalism in the spirit of the partisan.

Nationalism *as a process* he dismisses, with the statement that he has read history long enough to know better than to judge or speculate with respect to a great and long-continued historic process. But nationalism *as a belief* disarms his caution, and he proceeds to attack it as the atheist would attack Christianity, as the one-hundred-per-center would attack Socialism, as the conservative would attack Liberalism—in other words, as a partisan and an antagonist. Indeed, it is in the judgment and criticism of the historic process that Hayes could make his greatest contribution; for the modern manifestation of nationalism is, as Hayes admits, something of an outgrowth of the historic process. Moreover, much would have been gained from an application of historical criticism to his creedal manifestation of a historic tradition. He argues his case well. It is important to realize, first, that it is a case; and second, to inquire whether or not he makes it. Hayes argues with caution. He admits that there is some good in nationalism and that some manifestation of it will continue. But he devotes the major part of his book[1] to pointing out its evils and abuses. Nor does he have a very good word to say about its virtues and its value.

Hayes indicts nationalism on seven counts. First, it encourages the spirit of exclusiveness and narrowness.

[1] C. J. H. Hayes, *Studies in Nationalism*, 1926.

This is true to the extent that it emphasizes state considerations above world considerations. It is urged against world considerations when such threaten its life. Few will be willing to exchange the breadth and universality of the world for the things which the state provides. Bad as this exclusiveness is, it is merely the manifestation of the state. Within its own sphere, however, nationalism is a broadening process. It is broadening to the extent that the national interest and idea is urged above that of political subdivision, section, region, or minority, whether religious, racial, or otherwise. The history of the United States has been that of reducing the interests of state, section, and region to that of the nation. As a nation, the United States leads the full life more than under the former sectional régimes. Few would return to the separatist and sectional political philosophy of the past. Nationalism serves to break up barriers which set up a cult as objectionable as itself. It compels rival creeds to get along under laws which guarantee their liberty but restrain their intolerance. It reconciles the differences between employer and employee and aims to strike a balance between the conflicting demands of the agricultural and commercial classes. Minorities and groups which seek to live to themselves must participate in the state life, contributing to it and sharing its benefits. Each class, creed, group, or interest, if left to itself, would develop its spirit of axe-grinding, and also one of intolerance to other and rival classes or interests. To be sure, nationalism is set up against nationalism in international war. But it does neutralize the narrowness and exclusiveness of other elements within the state, and offers to them a broader and therefore a better spirit or cult, if one they must have. Which is to be preferred, a healthy and responsible nationalism, say in America, or unbridled conflict between fundamentalist and modernist, Protestant and Catholic, Jew and Gentile, black and white, worker and employer, merchant and farmer, citizen and

alien, wet and dry? We have these issues in the United States. Each partisan in any of these causes is a little broader for having forgotten some of his particularism and having acquired some Americanism. Moreover, some appreciation is due the spirit of an institution which makes it possible for these groups to operate under the law and which restrains them all from arbitrary acts against each other. That institution is the state, and its spirit is nationalism.

Again, says Hayes, nationalism places a premium on uniformity. In essentials, yes; in non-essentials, no. Citizens and residents are given an equality before the law. Under the laws of the national state an attempt is made to afford equality of opportunity to all. Mistakes are made in its application, but that is the ideal. In the United States we are committed to the doctrine of the equal chance, but not to the doctrine of equal rewards. The lazy, the indolent, the careless, and the ignorant do not, under our system, win equal honors with the alert, the resourceful, the diligent, and the wise. Much depends on the kind of uniformity induced. We commit the necessary sovereign powers to the national government, but leave a vast domain of authority to the states. That is the genius of our federal system. It would not do to allow California to make wars, to impose tariffs, to make treaties, and to maintain a separate armed force. We operated once under such a system and we know its failures. New York and Arizona have the same legal status in our constitutional system; but their relative weight in finance, in politics, in business, in social life, and in international influence is clear to one who will see. Not all of us pay the same amount of taxes, but we pay the same rate, within carefully determined classifications. Moreover, the passion for local self-government, so strong in the United States, Switzerland, and Great Britain, is, through units sufficiently autonomous for local purposes, given full opportunity to assert itself. Under our

system, one party is usually in control of the government, but there is an unending contest for control. Then there are factions within the main parties themselves. It is merely a matter of rational compromise. There is greater diversity in the modern nation-state than Hayes has admitted. It has become in some cases a uniformity of necessity; but it was first a uniformity of convenience, and is agreed to because the people want it.

A third charge is that nationalism increases the docility of the masses, that the citizen follows his state blindly, not questioning its Providential character. He will follow wherever national honor, interests, or rights lead him, sacrificing his own individual rights, interests, and honor, and will, in the name of the freedom and liberty of his own nationality, abridge the liberty of others and take away the freedom of other nationalities. This is a severe indictment. The modern state, through its spirit of nationalism, does insist that there shall be law and order and does insist upon a reasonable compliance with the law. A people, occupying a definite territory, expresses its will through a government. But a state arrives at its solutions by deliberation, debate, and by a vote either of its masses or of its constituted authorities. Differences of opinion have their place, and if the matter will admit of compromise there is one. If it is a principle which will not admit of compromise, it must have the support of a substantial majority before it can pass from a condition of relativity to one of absolutism. Such important matters are not settled without searching inquiry, during which all parties which are strong enough to be heard have their say. It then becomes a question of what are the rights of others. Elemental rights remain, but it is not the right of the minority to make its will prevail over the considered will of the majority, as long as the foundation of the modern democratic state is popular sovereignty and majority rule.

Then, Hayes takes what I believe to be a mistaken view

as to the calm acquiescence of the masses. The average citizen is a very objective person. With him a bird in the hand is worth two in the bush. His espousal of his country's cause is not merely sentiment nor is it blind devotion. The sustained devotion to religious institutions in this country is not due to the religious revival. It goes deeper than a mere manifestation of primitive religious traits. Nor is one's national allegiance merely the product of a political harangue on the greatness of the state. If the average citizen becomes enthusiastic in his allegiance, it is an enthusiasm which may be pardoned and commended. If he becomes a crusader in its behalf, it is because there is some real or fancied enemy which threatens the perpetuity of the institution to which he owes the protection of his life, his liberty, and his property, and which today, under our functional doctrine of the state, serves him in many ways. It should be remembered that the anti-nationalist can be as smug and as self-satisfied as the nationalist. From the nature of his belief, he is more destructive. Where there is an appreciation of the state through allegiance, he argues, it is wrong and must be attacked and, if possible, destroyed. For what? And what is to be established in its place? On questions of policy the state may permit the widest difference of opinion and debate until the question is settled. It cannot permit a difference as to its right to exist and to rule. Nor can it put into the hands of is detractors the weapons of its own destruction. Such is the abuse of an extreme anti-nationalism.

Another charge is that nationalism focuses popular attention on war and preparedness for war. War as a means of settling international disputes is admittedly a curse. But war has not been the exclusive property of the modern nation-state, which, in the main, is a democracy. It was at one time the property of a single church. It has been used by rival religions and by rival churches of the same faith. Private warfare existed long before the state

assumed its regulatory function. Other forms of political association, as empires, absolutist governments, and dynasties, have used it as a means of achieving supremacy. Emperor and Pope used forms of it in their ancient rivalry. The nation-state has inherited it from the past. It is unfortunate that we use it at all. But it shows improvement over the days when it was used for kings who ruled by divine right or for the settlement of religious controversies. Its objects are no longer devoted to enhancing the interest of reigning dynasties nor to advancing the claims of religion or church.

Since the last war, it has become probable that there will be no future great wars over territories. War today is in the main a restraining device opposing the inordinate ambitions of other states. It is a means of preserving and defending rights which have been invaded. It is true that a nation attacks and a nation defends. In the past it was a faith, a church, an empire, a king. The modern causes of war, while unfortunate, come nearer to the interest of the people than causes of the past. To be sure, there has been little improvement in the method. But there has been improvement in the assignment of reasons. It should also be remembered that in the settlement of these questions, while the method has been wrong, in some cases at least the cause has been just. Then, nations have seldom plunged headlong into wars. They have blundered into them in many cases. But the cases are few where a nation, from pure choice and design, has invented a reason for an unjust war. After all, the way of the world has been in the main the way of peace.

The equilibrium of the world has been disturbed by general and universal conflicts only at intervals of about one hundred years. The concert of the powers, so loudly abused as a breeder of wars, has really sought to keep the peace, and has worked at that task. Nations count the costs and assess the return of a conflict more than their

detractors will admit. But they are genuinely seeking a way out of the difficulty, and with some result. The church, religion, the king, the empire, each in the day of its power, afforded no solution. But the nation-state, an intensely artificial, impersonal thing, will do so in time. It is only in the days of democracy in government that the people have the opportunity to inspect the causes for an impending war. They will make mistakes. But they are less likely under present conditions to enter into conflicts which they deem unnecessary or unjust. The perplexing question of preparedness will be discussed under the heading of militarism.

It is further contended by Hayes that nationalism breeds intolerance. This intolerance is directed against devotees of international religions, disciples of social and economic doctrines of foreign origin, members of alien or "inferior" races, and dissentient national minorities. Here Professor Hayes argues well, and in a sense makes his case. But the case is overdrawn. There have been anti-Catholic and anti-Judaistic movements. They are few and on the whole ineffective. The ultra-nationalist may envisage a grave danger from Catholicism due to its international character. Few see eye to eye with him. The Catholic who fears nationalist opposition also sees a forest where there is only a tree. The feeling against Judaism is an anti-Semitic rather than an anti-religious feeling. While these religions are not in politics, their members sometimes take them there, and where this is the case a conflict is to be expected. There is really less trouble in the United States between the spirit of nationalism and that of religion than in countries of a single religion served by a single church. There is a fear that ecclesiastical control, so evident in some countries, may secure some headway here. A vigilance to prevent this on the part of any faith, whether Protestantism or any of its forms, Catholicism, or Judaism, is to be commended. As in other things,

the measures of prevention will be in proportion to the danger of such control.

The intolerance of race, faith, and color which followed the war is passing. It was championed only by extremists, who were rebuked and restrained by good people everywhere. The extent of its influence has been much overrated. It can hardly be said to be the result of a genuine nationalism. It does indicate what the course of public opinion might be should the danger be real. Where a religious group urges its claims against the primary claims of the state, nothing remains for the state in case of a crisis if it is to be supreme. In giving security and protection to those who live under it, the state cannot allow itself to be destroyed. There is such a thing as the intolerance of the representatives of religion and of the church. Then, the churches, especially in America, may, and generally do, neutralize the effect of an extreme nationalism. The doctrines of all churches lend themselves to this kind of thing. In a country where a majority are church-goers and where public opinion is so influenced by the churches, a resulting nationalism must in part be of their own making, and one for which they must, in their separate capacities, assume a certain responsibility.

Nationalism does oppose the activities of some of the holders of certain economic and social doctrines of foreign origin. Considered as a historic process and not as a belief, nationalism in certain countries has established, over a long period of time, certain ideals and principles which the people believe to be representative of their collective national life. Where adherents of such doctrines seek, in their advocacy of them, to interfere with such established principles and institutions, it is neither strange nor improper that they should meet with resistance. The social or economic doctrinaire is quite as intolerant as the state of its own nationalism and yet will invoke its protection against his own destruction. Among such doctrines

are said to be socialism, anarchism, and Bolshevism. In the case of socialism, there must be a definition of terms. If it is the socialistic party of the past, which has sought its victories at the polls in an orderly manner, there is no complaint. If it is the kind of socialism which during the days of neutrality and the war first embraced Germanism, then anti-Americanism, and finally Bolshevism, there is no doubt as to the attitude of most of the country and also of the government. Anarchism, striking at the foundations of the state, will of course meet the opposition of organized society anywhere, and its champions must expect to be watched and restrained by governments. The dangers of Bolshevism may have been overrated in the United States. But it does stand for world revolution. If the advocates of Bolshevism preach the spread of their doctrines to our shores, this country has the right to seek means to prevent the spread of those doctrines. There is no effort on the part of the government of the United States to carry its ideas to Bolshevist countries. The obvious differences between Bolshevism and our nationalism, said to be a capitalistic régime, are leading object lessons, respectively, in intolerance and tolerance. Under our system, we promote political democracy, encourage wide differences of opinion, and make provision for the protection of the minority. Bolshevism has repudiated popular rule. We allow our enemies at least to live, move, and have their being, while Bolshevism seeks to get its opponents out of the way. We do not convict the individual offender by secret accusation, but by public trial according to long established forms. Under Bolshevism, the accused has no chance unless he is a defender of the régime. Here we insist on the sanctity of property and contractual rights. They have been repudiated in Russia. The United States respects its international obligations. Russia has repudiated hers. Which is the more intolerant, American nationalism, or Russian Bolshevism?

There are also examples of intolerance against race groups and against minorities. Differences in race raise economic and social questions which no political organization can control altogether. The situation is distressing in some cases and seems hopeless in others. Such intolerance does not always come from the state. It is a matter of reconciling the conflict with a due regard for the justice of each group. In such matters the state will respond to the demand of the majority, and that demand is not always right. In the United States, races may live undisturbed in the main, but must live as Americans first and as representatives of their racial groups second. The question of minorities will be discussed under another heading.

Hayes also indicts nationalism on the ground that it leads to militarism and imperialism. These indictments will be discussed in subsequent chapters having these respective headings.

In order to clarify the concept of nationalism, a few propositions should be stated:

1. Nationalism is a natural phenomenon which must be accepted as a fact. It is not inherently good or bad, but may become either good or bad according to its use. It is as natural for nationalism to spring from the state as it is for the sun to shine or for an object, released from its attachment, to fall to the earth. Fortunately, this fact is recognized as one with which all must deal.

2. Nationalism is often represented to be what it is not. The exclusion of Protestants from Catholic Ireland, for example, would hardly be a manifestation of nationalism, although some would call it that. Nationalism, to many Chinese today, means the exclusion of foreign influence and the lifting of so-called unequal treaties, even in the absence of necessary guaranties. A political aspiration of a particularist group is not nationalism because it is political or because it is an aspiration. It must have the sup-

port of a majority of the people. It must become a part of the policy of the national state. It must have attained a certain legal recognition. It must have the active championship of some state sovereignty. These rules will exclude many things which are called nationalism. The concept suffers both from unworthy aspiring causes seeking political power and from would-be martyrs who seek, by the application of the term, to stigmatize it and to magnify the importance of their own position.

3. Nationalism is modified by the fact that no state can live to itself. Since this is so, patriotism and national spirit cannot be exclusively opportunist and selfish. There is no such thing as a self-contained nation-state. The sovereignties which make up the European political system have their own special characteristics and diversities. But they have only a minor significance. They are only parts of a common civilization which, with a common religion, a common heritage, common ideas, and common problems, leavens the whole structure with a common European spirit. This spirit of Western civilization has spread throughout the world. It has found a permanent and solid lodgment in North America. South America takes its form from the Latin expression of European civilization. Japan has reorganized her laws and government along Western lines. China is today in the throes not of a mere awakening to Western ideas but of a struggle to apply them. Western civilization has found its way into India and Africa. It is not alone political organization but also business and industrial organization, engineering skill, and invention which have reduced the world to something of a unit. Then there are the means of communication. The automobile, the railway, the phonograph, the radio, the telegraph, the telephone, the airplane, the moving pictures, the international press, and the present-day general discussion of international affairs have given a certain form and substance to ideas which formerly, because of their con-

finement to a given region, had merely a national cast. Nations no longer live unto themselves. Even regions cannot live unto themselves. Not Europe, not the Americas, not the Orient, leads a secluded life.

4. There are elements which cut through the national boundary and which serve also to modify a selfish nationalism. Scientific discovery with all of its advantages, knows no barriers. Knowledge is power, in Russia, Turkey, England, or the United States. Truth and justice are sought by the state and by the religions of the world, no matter what the external signs may be. International influences are steadily at work to neutralize the bad in nationalism. The good of course should be preserved.

5. The cult of power and the doctrine that government is above the law is rejected by mankind in the main. Machiavelli and Treitschke both advocated this political philosophy, but they wrote for a special period and for a particular situation. Their theories do not prevail today. Their philosophy has been used to support an extreme nationalism. But state immorality is not genuine nationalism. People are constantly attaching ethical standards to the acts of states, and prestige is gained or lost as the act is moral and just or immoral and unjust. Restraining this destructive theory of the state will relieve nationalism of its dynamite.

6. Nationalism has in it much that is of positive good. It can come only from a nation's conscience, its character, and its being. If the national state is to survive, the presence of nationalism is a strength and its absence a weakness. Law and order gain force and respect as they come from those who live under it. Nationalism is a tranquilizing influence and inspires satisfaction and guarantees settled conditions. It brings out much in men that an enforced or ordinary allegiance would dwarf. A moderate sense of security, of strength, of independence, and of self-respect, is as wholesome in state life as in individual life.

7. The goal of a sound, realizable internationalism lies along the road of nationalism. The international mind, according to Zimmern, can be attained only by those who have first an individual mind and then a national mind. Any world organization must take account of national units as participating and representative elements in the general scheme. Professor Hayes has recognized this when he declares, "to go from nationalism to internationalism is merely to take a well-marked turn on the very highway on which the modern world is traveling." The League of Nations is predicated on this hypothesis. Indeed, the very order and solidarity of the national state is what the international community hopes to achieve. As good deeds are stepping-stones to heaven, so the national states are paths to an ordered world.

8. The answer to the entire problem, after all, is one of international social education. The future peace of the world will depend on the teaching and the content of international social science. These subjects have not always been taught from the standpoint of their international aspect. To teach them so is in no sense to exhibit lack of respect for the national state. It merely supplies a defect of the past, and will make for a better future. There is a common element in the social sciences, even though they are sharply divided in organization. Anthropology, through the discovery of scientific data, can reveal the causes which underlie racial relationships. The study of economics can reveal the new world economy, and the factors of trade, investment, transportation, and credits, which cut right through national boundary lines. Education can bring to our attention comparative systems of education and the comparative social thought of the world in relation to education. Geography may explain the differences in physical environment which are reflected in populations inhabiting different regions, and thus explain prejudices and peculiarities of different peoples and na-

tions. History can bring to us a knowledge of the facts of national and international life of the past, as a guide for the future. Journalism can promote an appreciation of truth in world news and discrimination between fact and propaganda. Jurisprudence can explain the leading legal systems of the world and can set forth and improve upon the law which governs states in their international intercourse. Political science can deal with the state in its international life and can contribute to the necessary knowledge and understanding in this day of democratic control of foreign affairs. Philosophy may disclose the religious and ethical bases of the relations of peoples and nations. Psychology, through the application of scientific method to social human nature, is in a position to explain conflicting international social concepts. Sociology, interested chiefly in the objective study of group life, may suggest a scientific understanding of nations and peoples based on the principles of collective behavior as the substitute for race prejudice.

Such is the opportunity of the social scientist of the day. The politics of peace requires that he recognize it. A generation hence will test the wisdom of his course.

CHAPTER XVIII

IMPERIALISM

Imperialism is one of the important manifestations of the age. It is several steps beyond nationalism, but falls short of internationalism. Falling between these two extremes, it is more difficult to define because it is more difficult to understand. It may mean one thing to one person and another to another. There is rarely any half-way feeling about it. There is substantial agreement as to the existence of state life in its more usual forms, and as to its utility and desirability. A few deny that there is or should be such a thing as sovereignty, but most agree that it does or should exist. People will quarrel as to its location, its limits, or its results. But the state must have power, and must exercise it. Liberty and equality are state concepts which are universally recognized.

Many will disagree as to what constitutes liberty and equality, and how the state should be organized to promote them. There is an equality of status, of rights, of law, of opportunity. There are liberties which vary in kind and degree. But they exist, and are regarded as essential. A bill of rights is appended to each modern constitution of government. Even the inflammable concept of nationalism, while vigorously assailed in some quarters, is admitted as a fact and as one which will continue. It is also supposed, even by its opponents, to have a constructive use, and to be a stepping-stone to a better order. In the case of imperialism, there is little dispute as to its existence. There is small understanding as to its meaning. The widest differences prevail as to its ethics, its necessity, and its results. The champion of imperialism regards it as the greatest ordering process in the world. The antagonist of the concept regards it not only as wholly unnecessary, but as undemocratic, a process of enslavement.

The spirit and practice of empire is not new. The desire to rule over others, to derive an income from the land and the labor of others, to conquer and enslave, and to increase the bounds of the state as a business man would increase his business operations, is an ancient one. While the imperialism of the past is not altogether the imperialism of today, its motives are the same. Most empires have been based on power, and have been merely an expanded nationalism.

The greatest empire of ancient days was the Roman Empire. It did some good things. It gave to the peoples of the Mediterranean area a common citizenship and an advanced legal system. It reduced the warring tribes and factions to a state of peace and order. It doubtless increased the prosperity of the conquered regions. It brought the then known world within the compass of a single political organization and impressed on the divergent peoples a common civilization. But it was an empire based exclusively on conquest. It made war and not peace. It reduced the Greek world from a condition of liberty, independence, and equality to one of uniformity and submission. The original political thought of the Greeks is not found in the rigid legal system of the Romans. A region, rich in diversities, and giving to the world the best things of life in art, architecture, philosophy, literature, and morals, became lost under the leveling influences of a conquering power.

Even the earlier empire of Alexander was founded on unworthy motives and passed away. The Holy Roman Empire at first seemed to have strength and power. But it became an empty shell and, in the language of Gibbon, was not holy, nor Roman, nor an empire. It was the convenient vehicle for the assertion of temporal power against the papacy. The Pope, cleverly dealing with the independent states, recognized the love of people for independence and for diversity, and thus often won his point over the empire.

The Empire of Napoleon was great in its day. It con-

sisted of extreme French nationalism plus the ambitions of the greatest military conqueror in the world. Such a spirit of empire meant the subjection of neighboring peoples and the incorporation of the states of Europe into a single imperial system under the leadership of a military despot. Unity in Europe was and is needed, but not unity based on war.

With the modern empire the case is not so bad. Conquest and profit still have their place in it. Often the motive is the actual or presumed need of raw materials or markets, rather than the old idea of plunder and exploitation. The likenesses between the Roman and the British empires are very real. Both extended their territories by means of the sword. Both gave a common system of law to those over whom they ruled, one the Roman law and the other the common. Both reduced previously warring factions to a condition of peace and order. Both developed a highly organized and efficient administrative system. Both developed from small beginnings into great imperial systems. But here the likenesses end.

The differences between these two are what are most noticeable. The Roman Empire was developed by adding contiguous territory. The British Empire is far-flung; it covers the earth. The Roman was made up of similar peoples, springing from a related stock. The British includes most of the peoples and races of the world. The Roman method of government reduced everything to a common form or type. In the British Empire there are diversities of government types, just as there are diversities of race and region. Modern imperialism of the British type cannot be said to be shot through with idealism; but it does have some advantages over the imperialism of the past. It does take account of the wishes of the populations and does seek to govern for the good of those living under British rule.

It was not always so. The lesson of successful colonial

administration was a long and difficult one. In no case, except perhaps India, does the mother country today rule in defiance of the will of the governed or in opposition thereto, whether its form of rule be a self-governing dominion, a crown colony, a dependency, or a protectorate. Perhaps the old motives embarked England on her imperialistic career. But she could not hold to them if she dared. No government from above can today be other than enlightened. Public opinion is too strong to permit that. A nation gains prestige or loses it as it governs its subjects liberally and well. Then a state of world unrest and the uprising of native peoples lies in the offing unless government satisfies at least a minimum of their desires.

Modern imperialism is manifest in all the leading powers. States which are not imperialistic in form seek to be so and are so in spirit. Great Britain stands as the great example. Basing her prosperity on sea power and a great navy, she needed raw materials from afar for her factories and for general consumption, cargoes for her ships, markets for her manufactured products, profitable fields for investment, and posts in foreign lands for her budding statesmen of the pro-consul type. The extent of the empire and its problems we shall examine a little later. As the British "muddle through" in politics, so they do in imperialism. According to Seeley, "we awoke to find that we had made ourselves masters of half the habitable globe in a fit of absence of mind."

France has within a decade become the dominant power on the continent of Europe. While she does not have the urge of sea power which has driven England on to colonization, nevertheless she has penetrated into Africa and the Far East, and has received some important mandated territory formerly belonging to the German Empire. The French people are seeking to develop their colonies and make them pay.

The aims of Mussolini and the Fascisti are imperial-

istic. Imperialism is one of the rods of the Fascists. The Italians desire to restore the days of Rome's glory. This must be done by the acquisition of colonies and by making Italy the master of the Mediterranean.

Japan, while following the political institutions and the civil code of old Germany, has in foreign relations and relations with weaker peoples followed the policy of Great Britain. Being an archipelago, like the British Isles, and lying off the Asiatic coast as the British Isles do off the European, Japan draws an analogy between the two countries. Japan must be the great empire of the East. She must order the backward and restless peoples, and must have a great navy to aid in the process. While there are democratizing influences at work in Japan today, she still clings to the spirit of empire.

The colonial policy of imperial Germany is a thing of the past. But it is now a world story: her deliberate policy of conquering the world's trade, building as great a navy and merchant marine as England, and getting the residue of the world's available territory for exploitation.

The United States is not free from the spirit and practice of empire. Many Americans are opposed to imperialism, and many are enthusiastic over it; the great bulk of the people are indifferent. We got into the business quite by accident; but there is no disposition to run away from the task because it may happen at times to be unpleasant.

While admitting the force of imperialism in the world today, we need not make a firebrand of it. Current writers give to it an unprecedented importance which I believe to be unsupported by the facts. It is quite natural for an author to assume that the subject which he is considering is the most important one of his age. After a little time has passed, he will admit himself that other things may be at least of equal importance. If writers on international affairs would give more attention to the teachings of history, and could lay aside their labors for a time and resume

them again after associating with other ideas, their product would be more in keeping with world perspective.

I shall mention the views of only the two most conspicuous young writers on the subject, conspicuous because of their leadership in the field and because of the general currency of their views as expressed in recent books. Parker Thomas Moon, of Columbia University, in a fascinating book entitled *Imperialism and World Politics* has given to us the most comprehensive recent treatise on the subject. He has marshaled many facts in a thorough and scholarly fashion. But we must lock horns with him as to some of his major conclusions. The first bold generalization of Professor Moon is to the effect that "imperialism is the root and the *raison d'être* of world politics." And he adds, "such is the meaning of world politics."

Of course it is not. It is one of the elements in world politics today, as it has been in the past, and is only one. The history of world politics from the times of the Greeks until the present day reveals that imperialism has been only a minor element. For the most part man has lived in a state of peace. His international relationships have been devoted chiefly to the pleasant task of living peacefully in a neighborhood of states. The major part of our international life, past and present, has been non-political. C. Delisle Burns's *Short History of International Intercourse* explodes the theory that most of it has been political.

Moreover, that part which is political in nature is not dominantly imperialistic. Seizing territory and ruling subject peoples has not been the prevailing international political purpose or ideal of nations and peoples. Nor has it been the main objective of diplomacy. Diplomacy has been devoted to the maintenance of peaceful relations between states. The foreign office conducts the negotiation of treaties, receives and accredits diplomatic representatives, arranges for the reciprocal good treatment of nationals resident or sojourning in foreign states, takes steps to pro-

tect nationals where justice is denied, conducts diplomatic correspondence, and carries on diplomatic negotiations and conversations in the interests of peace. Only a small part of it is devoted to the problems of empire.

Some suggest that imperialism has been the main cause of international war. Certainly war is a manifestation of world politics. But imperialism is only one of its causes. The great wars of Europe, and even the more limited ones, have been due rather to regional ambitions and to designs against neighboring continental states. Territory and boundaries have played their part, but for primacy at home and not so much on the seas and in the backward parts of the world. Moreover, the territorial acquisitions, following a war of conquest, of lands located in the remote parts of the world, have been merely incidental features of a more general problem.

Defeat carries with it the loss of something, and the passing of the territory from vanquished to victor in no sense establishes that the war was fought for that purpose. In the long conflicts between England and France, we know, the American question was a factor but not a governing factor. The main causes of the conflicts were, along with the main settlements, exclusively European.

The business of governing colonies is entrusted to a colonial office, which is only one department of government in the average cabinet. It does not involve much of the revenue of the state, nor does it become the chief administrative burden of the state. Colonial policy does not lead with the people in interest or in importance.

The causes of wars have been nationalism mainly and imperialism only incidentally; and governments and peoples give only a small fraction of their time and attention to questions of imperialism. International law has built up a body of states having certain characteristics. Many of these are small states which guard jealously their sovereignty and independence. They are national states—

not empires. They carry on international relations and cannot be charged with an imperialistic spirit or imperialistic practices. Their moral influence is often greater than that of larger and more powerful states. International law thus defines the rights and duties of states and seeks to provide an amicable mode of settlement for their disputes. Our international system is neither exclusively nor substantially imperialistic.

Moon then comes down to more recent times, and asserts that the recent history of international relations, the alliances, the ententes, crises, and wars have, practically without exception, been "but surface manifestations of the swift, deep current of imperialism." Of course Professor Moon is more rhetorical than accurate in making this statement. It is the fashion of the day to decry the so-called "surface" causes of diplomatic relations and understandings, and of crises and conflicts, and to assign the "real," the "deep," or the "underlying" cause. This latter cause varies as do the persons who advance the particular hypotheses.

That imperialism had a part in the alliances and understandings before the Great War is clear. It is easy to pick out the imperialistic strands in the complicated diplomatic rope of the time. But they do not make up the entire rope. The imperialistic elements have in some cases been the more spectacular ones, but they have not been the controlling ones. These Moon has described well. But he has not mentioned the other forces. The system of alliances which divided Europe into the Triple Alliance and the Triple Entente was not designed merely to protect and extend the colonial activities of the member states, as Professor Moon seems to indicate. It was merely an effort to maintain the European equilibrium by restraining states or groups of states which sought to become too powerful, by the threat of a more powerful state or combination. Quarrel with it as we will, it was Europe's only method of en-

forcing peace previous to the establishment of the League of Nations. These entente wars were terrible, but the fear of combined opposition exerted a wholesome influence on the would-be disturber of the equipoise of Europe. The root of power and ambition did not rest chiefly in the spirit or practice of empire. In the majority of cases, constitutional or domestic questions, or questions concerning Europe as a region and political entity, brought on the rivalry and later the conflict. And the root was nationalism.

Moon also contends that the causes of the Great War and the outstanding considerations of the peace settlement were imperialistic; that other forces, if operative at all, were merely subsidiary. Here again it is easy to separate the colonial considerations from the others and to hold them as the conclusive elements in the war and the peace. In 1914, as in the three other great disturbances which have transformed Europe into an armed camp, the chief concern was the peace and safety of Europe. One risks much to state the causes of the Great War. I merely wish to suggest some causes which had a part in the embroilment, to show that land hunger was not the only one.

Even in Germany, where the spirit of empire was the greatest, there were related causes. First was the view that the state is power. It was preached by the ministers, explained by the university professors, dreamed by the populace, and worshipped by the official classes. Second came the activities of the military class. A nation in arms means, sooner or later, a nation at war. Some of these sought war for its own sake, as an ennobling influence. Others, living in an atmosphere of war philosophy and war preparation, believed war to be inevitable. So why postpone the evil day? Others in Germany thought a great foreign war would cement the empire and restore the ideal of unity entertained by Bismarck. Finally, the proud boasting and the pretensions of the house of Hohenzollern, responsible only to God and itself, in time came into conflict with gov-

ernments which operated under responsibility to parliaments and which were restrained by public opinion. On the side of the allies, imperialism was only a part of the case. Russia, while protecting the Slavs in the Balkans, sought to do so, not so much by actual conquest herself as through the perpetuation of the independence of the Slavic states. Her ambitions in this respect had been thwarted by Austria and England at the Conference of Berlin, under the "honest brokerage" of the Iron Chancellor. The action of France in defending her frontiers can hardly be said to have sprung from imperialism. The issue of security and frontiers between France and Germany is historic. The Frenchmen, defending Paris in 1914 against the German advance, thought little or nothing of empire. Living in a country so remote from attack, it is easy yet fallacious for us to assume that the cause of an international war will be found chiefly in the outlying districts of the world.

It is true that England, before entering the war, was concerned as to the possible intent of Germany with respect to the French colonies. It is interesting to reflect that as the German army approached the European coast, England ceased to halt between the two opinions of a wounded neutrality and war. The cause of colonies did not take England into the war. If that had been the issue, her decision might well have been made at the start. But it took the invasion of Belgium to settle that question. England, as well as the other states, entered the war, first, to save herself; second, to preserve the independence and integrity of other national states; and, third, to preserve the European political system. Imperialism may be listed as an additional factor.

Nor was the peace merely an imperialistic bargain. The Allies did arrange to partition the German territories among themselves. They faced the possible future partition of themselves, and they did not plan the partition of Germany and the other empires except in deference to

the principle of nationalism. The occupation of German colonies and of Turkish territories was a part of the victory. Any hostile territory is open to occupation, and if left unoccupied may lead to defeat.

Professor Moon refers to the mandate system of the League as "nominal" internationalization. He also mentions the fact that the award of mandates respected the divisions of territory made by the Allies before America entered the war. Indeed, the internationalization is not merely nominal. The degree of national control varies as the capacity of the native group to stand alone. There would be some degree of guidance and supervision in any case. The government of the mandated territories is different from what a complete national administration, without an international responsibility, might have been. The partition of German territories, had Mr. Wilson's plan not prevailed, would have been the expected thing, and only an episode in the general terms of peace. But the point is that his plan did prevail. The work of the mandates section of the League Secretariat, the work of the Mandates Commission, and the reports of the mandatories to the Council constitute a great achievement that is not merely a "nominal" but a very real undertaking.

The tide has turned, and peoples of the world are not mere pawns in the game. Then the peace, while internationalizing the colonies under national control, released many nationalities from the bondage of former empires and set them on the road to the realization of their national hopes. Minorities denationalized in this larger but necessary duty were afforded ample safeguards while living under their involuntary allegiance. Far from enthroning imperialism, the peace set back its spirit and practice many years.

Another fashion of the day is to blame everything on the Treaty of Versailles. Contemporary literature teems with "how it might have been done." Without entering

into its merits and defects, we may here insist that civilization is fortunate in being able to set itself right in time. The glaring defects of the treaty have been heralded far and near. After all, it has established European civilization on the only foundation which seems likely to lead to peace rather than to war.

Much is said and written about this being the "age of imperialism." Professor Moon declares that "imperialism is the most impressive achievement and the most momentous world-problem of our age." Professor Buell, formerly of Harvard University, in his recent book entitled *International Relations,* declares the twentieth century to be "the age of imperialism." He does distinguish between the type of imperialism now disappearing in Europe, due to the Peace, and the government of the so-called "backward peoples." Professor Buell fortifies his statement by further statements: "We are now entering a period of intensified international economic competition, in which the problem of imperialism is becoming all the more acute because most of the backward areas available for colonies have already been appropriated."

It is easy to mistake complicated economic adjustments for manifestations of imperialism. The questions of concessions and immigration have not been the foremost questions of the day. Persons informed on the causes of "the malady of Europe" will know that it has been connected chiefly with domestic questions, and with relations between the major European countries and the United States. There has been great disorganization arising from depreciated currencies and an overuse of paper money, conflicting economic policies of the governments, and the inevitable derangement of relations between producer and consumer.

We live in an age when the motive and the means of international co-operation fortunately coincide. The League of Nations, whatever its faults, has furnished the means.

The nations today meet in conference, under the guidance of the Economic Section of the League of Nations, to reconcile their major economic policies, which conceivably might lead to conflict, to consider what means and measures will increase the prosperity of all, and to lend a hand, where it is wanted and needed, in the financial restoration of neighboring states. These problems of immediate and direct concern receive the major attention. Problems of imperialism receive little of it.

It is conceivable, further, that an international co-operative effort which will admit Germany to the League of Nations, reduce former colonies of a great power to mandates, co-operate financially, and reconcile conflicting policies will be able also to adjust the points of friction with respect to outlying territories. This has been done with respect to the territories in the Pacific belonging to the leading powers. Should it be necessary, a territorial Locarno could be negotiated. A system which can adjust the troublesome question of security can do the same for imperialism.

The dangers of imperialism in Europe have been removed by the resurgence of nationalism. The internationalism of Europe will be based on a confederation of national states. Otherwise, the Napoleonic plan might have succeeded. Nor need we be alarmed over the problem as it affects the so-called "backward peoples." The British Empire is in process of change. The trusteeship of Great Britain is being challenged, not by the other states of the world, but by the affected populations. If they are released, an ordering process must be assumed somewhere. It might be passed to the League of Nations. Other nations, far from seeking the task of Great Britain, are content to take advantage of the order she maintains, and to let Britain pay the bill. They fear that Britain may ask them to join in the task or to face the danger of a complete release of these peoples.

Then, too, movements in the direction of greater self-rule have been demanded by the self-governing dominions, the dependencies, and the protectorates. It was the price of loyalty during the war. England has been forced to comply. The British Empire is in a condition of transition, and the tie that binds is a very fragile one, based on the consent of many of the affected regions. In the case of the dependencies there is less self-rule, but in each case an attempt at adjustment has been made.

The so-called imperialistic policies of the United States are being challenged in Latin America, and especially in Mexico, where an anti-foreign government is in the saddle. China is today fighting for the relinquishment of so-called unequal treaties, which the powers are glad enough to cancel if the Chinese will only show with whom they may deal and what guaranties will be given in return. Never was the way of the imperialist harder, and never was the future of the imperialistic power more uncertain.

The very difference of opinion among the peoples of the European countries on the question neutralizes the fear of extreme action by governments. The anti-imperialism campaign by Mr. Bryan, in 1900, while not successful at the polls, sobered the control of our dependencies by Republican administrations. The price of European civilization is a certain order. A world unity and economy cannot permit these regions to go back to their former condition of warfare waged for the purpose of extermination. Nor would they consent to go back. Nations now exercising powers of supervision and control will relinquish them when these people are ready to stand alone and to do for themselves and the world what is now done by others. A material advance in the direction of such relinquishment has been made already. The advance will continue by gradual stages, but not in a manner which will unchain a number of forces which will engulf themselves and others in war.

Imperialism, then, is not as significant as it seems to be. It has substantially disappeared in so far as it means the oppression of European peoples. In the outlying regions of the world, in spite of the many sins committed in its name, it was merely a response to the demand for ordered conditions which has benefited the governed, the governing, the disinterested states, and even the scoffing anti-imperialist who stands on the sidelines bemoaning its existence. It ought to go, and is passing. But we cannot release one foot from its position until we see something of the foothold which is ahead.

CHAPTER XIX

THE WAYS AND MEANS OF IMPERIALISM

Let us state briefly the most general reasons for imperialism. All special reasons will fall within these categories.

A. *The doctrine of a world mission.*—The worst sort of imperialism begins with the nation's conviction that it has a world mission. This is really an extended nationalism. Whether it leads either to the subjugation of neighboring peoples who have lived on equality with the conqueror or to the administration and control of backward areas, it starts with the theory that a mission rests upon the ruling state. If successful in war, a nation simply assumes that its rule will be good for those who are forced to live under it. All empires have been imbued with this idea.

The Greeks sought to "Hellenize" Asia and the outlying regions. Rome tried to give to the world a series of uniform laws. Louis XIV, while plunging the continent into a series of wars, thought he was giving Europe a higher civilization. Napoleon believed he should give a system of law and administration to peoples who did not want it. The Hapsburg Empire was bent on championing the claims of an orthodox faith. The Spanish acted similarly in the days of their greatness.

National ambition, aroused and enforced on others, becomes imperialism of a kind. It is not the possession of either ruler or ruled, or of any particular class of society. It becomes somewhat sanctified in the idea of a mission. The nature of the mission varies. It would all be well, if kept to the nation, but when it shifts from the defensive to the offensive, it causes trouble.

In judging nations, we must take account of the human elements. The good and the bad in individuals are reflected in combinations of individuals and in their collective be-

havior. A crisis will bring both good and bad to the front. The balance is on the side of the good. What is normal in the individual and the nation is hard to define, but we know when regularity is violated. It is a condition of men and nations to think too highly of themselves and to suspect their neighbors too much. Both are sound tendencies which reveal a sense of strength and achievement and a wholesome solicitude for one's rights and comforts. Violent manifestations of these tendencies are unnatural and arouse in others a like sense of importance and a kindred solicitude for their own rights, based on suspicion. The national mind gets into a state of disorder, and then a condition of insanity sets in, followed by acts of insanity. Then follows inevitable defeat. The wrong done by the sword is repaired by the sword. The cost of repairing the injury is great, often hardly worth the price. The true remedy lies in the abandonment of the idea and the abolition of war as a means of either injury or repair. This is a counsel of perfection, but we are on the way to it. The idea of a world mission is displaced by international cooperation at Geneva and elsewhere. We have the substitute for imperialism. What is the substitute for war?

B. *Economic reasons.*—The economic urge for imperialism derives from three simple propositions. The first is that land, resources, and materials which are sorely needed by the world cannot and should not lie idle as the unused patrimony of a people who are not in a position either to profit by them themselves or to make them available for the world. These materials will find an outlet somehow. Whether right or wrong, Western civilization has the habit of compelling the release of materials withheld under conditions of ordinary business. A better means of control or of negotiation than it employs might be effected. Concessions leading to the exploitation of these resources might be couched in terms fairer to stubborn natives. But human nature is set against the locking up of such re-

sources in defiance of world need. Unfair control or force, while unfortunate, is in a sense an answer to an economic law based on psychology.

Secondly, natives will have the products and the comforts of Western life to the extent of their ability to purchase them. Rarely are such things made in the backward regions. A steady demand for them has developed, and increases as the native's contact with civilization increases. The manufacturing interests and the shipping interests will profit where the door is open. An unfair control of colonial markets can issue from this, but the native would not abandon his contact with Western goods if he could do so.

Finally, the flow of capital cannot be stopped anywhere in the world. It is a universal law which even communists admit. It will go where there is an opportunity for profit, and will stay where there is demonstration of profit. It will soon withdraw from places which make war on its operations. It may bring evils in its train to any outlying region or province. But none who have lived under its blessings are willing to forego them. If they do forego them, they soon seek a return to some of its advantages. To make a profit, settled conditions are essential. Wrongs may be committed in the act of settling such conditions. If a project pays or can be made to pay, it can be carried out. Political and physical difficulties can be swept aside for profit. If it is profitable to tunnel a mountain, to go over it, or to build a pipe-line of continental expanse, "it shall be done."

The business classes of the Western world who are chiefly interested are the bankers, the shipping interests, and the exporters and importers. They should always consider the reasonable wishes and interests of the native peoples. But not all the fault is on the side of the imperialist. Concessions are granted for consideration, and the concessionnaire is often kept in a perpetual state of tribute-

paying for the right to hold the privilege he has already secured. Illegal levies are often made, and the price for government favor and protection has to be paid. Often the governing class in an awakened country, asserting its representation of the entire people, represents only its avarice and its caprice. Unable to develop the resources of the country for the common good, it charges what the government appears to receive, and then collects sums which never appear on the books. Something is to be said in favor of an honest deal with the concessionnaire.

C. *The spread of religion.*—Christianity has stood for the peaceful conquest of peoples of all nationalities. While Judaism was a restricted faith, its successor in influence has a distinct international, even a cosmopolitan flavor. The ideal of uniformity and unity is given by St. Paul, who said: "There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female; for ye are all one in Christ Jesus." Then there is the admonition, "Go ye into all the world and preach the Gospel to every creature." The Pauline conception of the mission of Christianity was an active, militant one. The life of the faithful was the life of the Christian soldier, ever fighting, and pushing, figuratively speaking, into the enemy's country. Christ meant that in "fighting the good fight" one should be peaceful. Organized Christianity, however, took the injunction literally, sometimes carrying on the fight in its own right and at other times entering into an entente with governments. Conflicting religions met in battle during the Crusades, and conflicting faiths during the Protestant Reformation. Settlement of a new territory has always followed something of a religious urge. English settlers in America left the home country for religious liberty. Spanish settlers sought not only to colonize, but to Christianize.

It is no longer regarded as right to force a foreign religion on a people. But Christian churches have insisted

upon the right to carry their crusade to peoples living under other religions. They claim they are entitled to the national protection of the country of their allegiance. Their activities have not always been wise. Far from it! Sometimes resistance to missionary effort has led to annexation by the Christian aggressor. Nevertheless, we cannot deny the benefits of religious activities on the frontiers.

Most of our great institutions of learning today in the United States were at one time small denominational colleges. The minister during our colonial days was the leader of thought and set a pace for the community which has in the main been a good one. In foreign fields, the missionary has converted; but this has not been his total contribution. He has established educational institutions and has trained many young men for positions of responsibility in the state. He has established hospitals, clinics, welfare organizations, and has improved the agriculture of the regions where he has worked. He has attached himself to the people with whom he works and has radiated an influence for peace between the country of his origin and the country of his labors.

But how about the future? Should not the money spent by the churches be directed to other objects and natives left to carry on their own religious institutions? Are the missionaries welcome in the countries of missionary effort? Do they not mix in politics, and do they not forget that their purpose is one of evangelization? These questions and others occupy the public mind. At a recent conference on international relations, a round table of missionary effort was provided under the leadership of an able educator. Several missionaries were present. Instead of being interested in the study of their own activities and in the improvement of their own technique, they preferred to attend round tables on race relations, world markets, nationalism, and foreign politics, where they spoke as ones

having authority. Doctrinal discussions are giving way to the idea of the church as a service organization which must extend its influence and support into many other fields. Such an influence here will be felt in the religious outposts of the world. Missionaries now feel that they must identify themselves with the thought and the needs of the people they serve. If the religious factor must be thus submerged, or disguised under other labels, has the opportunity for service passed? I do not answer the question. I merely state it. Whatever the future, the missionary has been one of the great civilizing, ordering influences in the world.

D. *Overpopulation.*—Just as overpopulation has been a cause of Europe's economic maladies, so it has been a leading motive for imperialism. Nations like the United States are closing their doors against unrestricted immigration. Overcrowded nations would have their peoples go abroad rather than remain in a condition of poverty at home. They prefer, however, a field of expansion where their emigrants retain their national traditions, their language, and their original allegiance. Mussolini seeks both raw materials for the employment of his people, and a place where they may work under Italian allegiance. The limits on immigration into the United States intensify the problem in the home state or deflect the expansion to other regions, such as South America. The growing population of Germany was often cited as reason for colonies. Japan is held forth as a menace to the Western world because of her great surplus population. Many Japanese do seek fortunes in other parts of the world, and the Japanese would, if they dared, expand to China. The flow of population, however, is not so free as the flow of capital. It hardly offers a legitimate explanation of modern imperialism. It is a poor excuse, at best.

E. *Interested official classes.*—All generals and admirals are imperialists at heart. They dream of the con-

quests in the past and of the glory which might come to them. Extended imperialism helps the army and navy business. It means foreign service of a sort, and a possible record of greatness. Often it leads to new opportunities in civil administration. Diplomatic officials also usually crave more power for their country. It means more international problems, greater prestige for the country, and more diplomatic business. But the colonial official who would become a pro-consul has the greatest thrill of all. He can reduce a subject population to civil order. He can prescribe panaceas for its political and industrial ills. He can return to civilization with a record to his credit more romantic than mere business or political achievement at home. This is not a great influence, but it is an active one, far from negligible. Returned officials from the Philippines are ever afterward authorities on the question of Philippine rule. They have the consciousness of superiority which a bureaucratic experience inevitably imparts. It is only natural that classes that profit by a system will work for its perpetuation.

F. *Military considerations.*—The military policy of a nation may require imperialism. Certainly imperialism, if followed on a large scale, requires a large military establishment. Maritime powers have sought colonies for naval bases and for supply stations in regions far from home. The protection of existing colonies may require other territory as a means of excluding rival states. The need of passage for ships has led the United States and Great Britain to secure control of certain important waterways. These bases and fortifications are at bottom measures of defense which amount to the military expression of imperialism. Where there are relatively long distances between possessions, or where there are many possessions, it becomes necessary to maintain places where forces may be concentrated, in readiness for troop or naval movements.

Mobility is an important factor. The British Government refused to sign the Geneva Protocol partly because troop movements would not be allowed after a disturbance. She argued that unless she could move her troops and ships from the points of concentration to the seat of trouble, she would be compelled virtually to double her forces, which would entail an impossible expense and an increase in armaments not in keeping with her policy. Then, too, during a war, native populations may be merged in the armies of the home country. Military considerations, however, are not paramount in the matter of imperialism. Territory is regarded as essential for the protection of other territory. Such military measures are to protect the imperial domains, not the country itself. The economic urge is the only one which brings imperialism directly home to the people of the governing country.

The causes of imperialism receive much attention in current discussions. But more attention should be given to the mechanics of the system. The first tool of imperialism is rapid communication. The world is knit together in a network of railways and steamship lines. One can go quickly from colony to mother country. The second tool is ease of communication, which makes all regions of the world interdependent from the standpoint of resources. We have formed the habit of furnishing certain things to the world and receiving our own necessities from afar. The third tool of imperialism is capital. All modern nations have been financed from foreign states. Capital knows little of political limitations. It is not surprising that the capital of the mother country should finance the colonies. The fourth tool of imperialism is people. The process should be of and for them, if not by them. This is the disturbing element in the modern colonizing power. The fifth tool is land or territory. These things taken together are the mechanics of imperialism. A nation may trade, communicate, and invest in another state without

any loss of sovereignty or political control. There must be a people to be ruled and a territory over which to exercise jurisdiction for a colony to exist.

Let us now consider certain specific examples of imperialistic expansion in order that the subject may be portrayed in its stark reality as a vital problem of practical world politics.

CHAPTER XX

BRITISH IMPERIALISM

The United Kingdom is a unitary state. It involves none of the federal features of the government of the United States. Every form and variation of government is found within the confines of the Empire, ranging between the extremes of federal and unitary, with the United Kingdom as the dominant partner. Diversities of form are the results of diversities in race and region. There are in the Empire today approximately 460 millions of people. European Britain claims upward of 47 millions. Canada, Australia, and South Africa boast of nine, seven, and seven millions, respectively. East and West Africa hold about 33 millions. India and Burma have a total of 300 millions.

Diversities of race are accompanied by diversities of geography. The Empire embraces important possessions in all five continents and islands in all the seas. Its basis is the European region, which includes the United Kingdom and Ireland, and adjacent islands, and the strategic locations on the Mediterranean. In America, there are Canada, Labrador, Newfoundland, British Guiana, British Honduras, and certain islands. The Australasian chain embraces the continent of Australia, the archipelago of New Zealand, and British New Guinea and Fiji. The West Indian group includes the archipelago which, with the aid of certain American possessions and independent states, forms a sort of insular barrier extending from the peninsula of Yucatan to that of Florida; these comprise Jamaica, the Bahamas, the Barbadoes, Trinidad, Tobago, and the Windward and Leeward Islands. The Asiatic region includes India, Burma, Ceylon, Hongkong, the Straits Settlements, the Malay States, and other possessions. Finally, there are Egypt, now independent but formerly under the protection of Great Britain, and the territories under man-

date to Great Britain by authority of the Peace Treaty and the League of Nations; these mandated areas extend to Palestine and Mesopotamia, formerly under Turkish suzerainty, the German insular possessions south of the equator, and certain of the former German territories in Africa.

The British Empire's peculiar make-up is the most significant political fact in the world. Whether or not political organization wholly in deference to such diversities can be maintained is a question which is now engrossing the member states of the Empire. It is certain that such considerations must yield a part of their interest to the world economy and the world order. The British Empire stands as a contradiction of the statement that such diversities cannot be bound together politically. With so few elements in common, the political rather than the economic factors seem to be the greater. But would the tie still remain, should the dominant partner release its dominancy and authority? It clearly would not, unless the federal principle as used in Canada and Australia should be extended to the whole Empire.

A. *Elements of the Empire.*—The constitutional organization of the Empire, like everything else about it, defies classification. But even here, for purposes of administration, certain divisions have been found useful. These divisions are not any man's inventions, but have developed through the years until they now have an accepted status. There is, first, the dominant partner, the United Kingdom, which is today the archipelago off the European coast, excluding the Irish Free State. Next in order are the self-governing dominions, members of and partners in the British Commonwealth of Free Nations. They include Canada, Ireland, New Zealand, Australia, and the Union of South Africa, all peoples of European descent who have taken with them their British political habits and practices. They have all developed the art of self-government. They now have a position of equality

within the Empire, as well as a recognized independent status in international relations. Then come the Crown Colonies, of which Jamaica is the leading example. Formerly they had a governor with a nominated council and an elected assembly; responsible government was introduced after a fashion; but with the abolition of slavery and the enfranchisement of the freedmen who constituted a majority, the Crown system was again adopted. They are in the main governed directly by a governor appointed by the Colonial Office and responsible to it. Next are the dependencies, perhaps the most important of the possessions, regarded as problems. India is the leading example. The term dependency implies a possession different in language and race from that of the governing power. India is an empire in theory, but in practice and in fact merely a dependency of Great Britain. Government of the dependencies varies according to need and policy. Then come protectorates, like Uganda and Bechuanaland, which in theory sustain an international relation with the United Kingdom but in which the measures of control are nevertheless very direct. Finally, spheres of influence and leased territories also form a part of this vast domain; it includes self-governing nations, great dependencies, important protectorates, down to mere fortresses, coaling and trading stations. The mandated areas have added much in the way of government responsibility, and will be discussed under another category.

B. *Imperial government and relations.*—Only a brief word need be said as to the agencies of imperial administration. The protectorates have yielded a certain amount of their internal or external sovereignty, or both, by conventional arrangement. Where this is not so, *de facto* situations have arisen which virtually place the affected state in this category. The relations with the protectorates are therefore carried on through the Foreign Office. The Colonial Office has the greatest burden with respect to colo-

nial policy and administration. The Colonial Secretary is a responsible member of the Cabinet and must be prepared to explain and defend the government's policy in the colonies. He is responsible for amicable relations, and a successful secretary is the one who has the least trouble with the native peoples. Since most of the difficulty arises through administration, the Colonial Office has here a peculiar responsibility. The right men must be trained and despatched to the posts of empire. It is through the Colonial Office that the imperial bureaucracy is recruited and assigned. India is directed by a special office, with the usual parliamentary and permanent staff, conducted by the Secretary of State for India and the Council for India.

The relations of the member-states and the dominant partner cannot be subsumed under any satisfactory category. But, after all, experience has taught its lesson here. Centuries of administration have developed certain sets of relations which have a common element. The most important is the sovereignty of the king in the parliament. Where the local legislatures are incompetent, and where general legislation has been found essential, as in shipping, the dominant partner has acted for the good of the entire Empire. In theory, the king, through his governor-general, may withhold his consent from colonial legislation, or may expressly veto it after such consent has been given. The courts of last resort of the oversea possessions do not speak with finality within their own jurisdiction, but an appeal lies to the Judicial Committee of the Privy Council. The appointment of the governors of the colonies and dependencies rests with the Crown. Moreover, the dominant partner in the main conducts the foreign relations of the Empire. These are principles which have become virtually practices. But they are being challenged, and it can hardly be said that they make up the constitutional law of the domain. Indeed, we shall soon see how these rules will in all likelihood be modified and abandoned at the suggestion

of the co-operating partners in the imperial enterprise and with the consent and agreement of the dominant one.

C. *Evolution of the self-governing dominions.*—The most important fact in the evolution of the dominions is the application of the English system of government to their situation. This means the principle of ministerial responsibility as it obtains in England. The mother country learned little from the American Revolution which found application in her government of the oversea possessions. But the traditional conflict between the governor and the legislature continued. Elective assemblies were granted the Canadian colonies after the Revolution. The French of Upper Canada used their parliamentary majority to intensify race feeling and to tie the hands of the British governor. Through this irresponsible agitation, uprisings were encouraged. These were suppressed, but some change had to be made which would make legislative majorities responsible rather than merely elements of embarrassment.

Lord Durham was sent to Canada to reconstitute the government, and to lay down the lines of future colonial policy. He found the conflict to be one, not of principle, but of race. A common defect existed in all the colonies—an inevitable conflict between the executive and the elected lower house of the legislature. The necessary union of powers could not result, when the executive and representative branches of the government were in constant conflict. The representative branch had to be made responsible through the introduction of cabinet responsibility on the English model. The governor should surrender his actual executive powers to the men who could command a majority in the lower house.

This important step was taken in Canada in 1848, and was, in the course of time, introduced into most of the other colonies. In the Dominion of Canada, for example, this executive power is vested in the governor-general for the British Crown. In fact, it is exercised by a body of

ministers who hold office at the pleasure of the House of Commons of the Dominion. This body now has a membership of 235, and is elected on a basis of universal suffrage for a five-year term, but is subject to dissolution. The Senate is made up of 96 members, nominated through the ministry by the governor-general. They hold for life. While its legal position is one of equality, the House of Commons is the force in Dominion politics. There the parties vie for control, ministries are embarked on their parliamentary journey and discontinued, and finance bills are determined. The provincial governments partake of the same system of parliamentary responsibility. The lieutenant-governor, appointed by the Dominion Cabinet, holds for five years, and is non-political. The provincial legislature is elected for a four-year term, but may be dissolved. The provincial cabinet is chosen by the majority in the local legislature, and is responsible to it. This, with certain variations, is typical of the operation of the principle in the self-governing colonies. Canada is taken as an example, because that is where the evolution took place and where our greatest interest lies.

In the second place, we should notice the operation of the federal principle in the dominions. Here again, Canada led the way. The diversities of the country dictated that any system of confederation should not only give the defined regions of the Dominion the opportunity for self-rule but should also give full heed to their economic interests. It is a country which partakes of American conditions. The interests of the British in North America could be advanced to greater effect when the region was organized as a political unit rather than as a group of entirely unrelated colonies. But the advantages of local autonomy must be retained. It is a country about 3,000 miles long and about 1,000 miles wide. The maritime provinces have a definite set of interests, such as shipping, manufacturing, finance, and fishing. The lake and desert

provinces go in for a combination of agriculture and forestry. The prairie provinces have exclusively agricultural interests, while the Pacific Coast is interested chiefly in shipping, forestry, mining, and fisheries. Diversities of language, faith, and nationality also require a federal scheme. About one-third of the population, living mainly in the province of Quebec, speak French, are of French descent, and follow the Catholic religion and the Roman law. The remaining two-thirds are of English descent, speak English, are of the Protestant faith, and live under the common law. The main features of federal government in the dominions are the same. In Canada, the dominion legislature may disallow the acts of the provincial legislatures. There is no judicial power of veto as in the United States. The judiciary, unlike that of the United States, is in the hands of the dominion authorities. Where powers are not expressly given to the dominion or provincial parliaments, and a conflict ensues, the argument is resolved in favor of the dominion government. The opposite is true in Australia and the United States. The Constitution of Canada was really prepared by Canadians, but was enacted by the British Parliament in 1867 as the British North America Act. It may be formally amended only by the British Parliament. The Australian states, united under a Commonwealth in 1900, have a constitution which cannot be amended except by a majority of the voters and a majority of the states. The South African colonies were united as a union in 1910; the resulting Union is also a federation, but much control is held by the parliament of the Union. Thus, federalism and responsible government may go hand in hand.

As to the imperial status of the dominions: they have become the British Commonwealth of Nations. In their relations one with another, they insisted, as partners of the greatest political undertaking, that they should be on a plane of absolute equality. In their relations with the

dominating partner, it was agreed that guidance, agreement, and even supervision might be exercised, but not arbitrary control. In the field of tariff legislation, the dominions are supreme, and may levy against each other and against the United Kingdom. Imperial preferences are given on the part of the dominions, but Great Britain as such has not adopted such a policy. The problem of imperial defense falls in the main on Great Britain. Forms of support have been agreed upon in the past, but the naval program is essentially an imperial matter. Dominion support must flow of its own accord. Perhaps support of the Empire in the war is regarded as a sufficient contribution.

The imperial conferences have been held at stated intervals since the Queen's Jubilee of 1887. These conferences have assumed an enhanced importance within the last decade. Instead of being under the presidency of the Secretary of State for Colonial Affairs, the Prime Minister of Great Britain presides, as a sort of president of the British Commonwealth of Nations. Meeting under the chairmanship of the Colonial Secretary would imply a certain loss of status. In 1916, the war cabinet of Great Britain was constituted as the imperial war cabinet by the inclusion of representatives of the dominions. From that time on, British army, navy, and defense control and war policy was a joint affair. This partnership of war has continued as a peace-time partnership.

The dominions have acquired a definite international status. They were given separate representation as participating states at the Peace Conference of 1919 which drafted the Treaty of Versailles. The Covenant of the League of Nations lays down the conditions of admission to that body. Independent states or self-governing dominions may become members. Through this provision, Canada, Australia, New Zealand, South Africa, India, and the Irish Free State, as well as Great Britain, have representation in the League Assembly. Moreover, any of these

dominions may be elected to seats on the League Council; Canada holds a seat at the present time. The Irish Free State maintains a representative at the League of Nations. Some of the dominions are insisting on the right of independent diplomatic representation at capitals where there is much business. Canada and Ireland already maintain such commissioners at Washington. The votes of the dominions on the Assembly are not dictated by Britain. Nor do the dominions regard the British member of the Council as their representative on that body unless they choose to do so. Indeed, Ireland insisted on registering a treaty with the Secretariat of the League of Nations, over the protest of Great Britain. The right of independent treaty negotiation is demanded in matters which are of peculiar concern to the separate dominions. Since the involvement of England in a war also will involve the dominions, they insist upon being consulted as to foreign policies and on the mode of conducting foreign relations. A dominion within an empire is thus a nation, with membership in the League of Nations, and with a control over mandated territories. Indeed, our former notions of constitutional and international relationships are being superseded by the realities of national and international life.

D. *Constitutional changes in India.*—Unrest in India, and dissatisfaction with the lack of native participation, led the British Government in 1909 to promise a larger extension of the representative principle among the classes entertaining ideas which had been fostered by British rule. By the Indian Councils Act of 1909, the elective principle was to obtain in the provincial councils to a greater degree, and the opportunity for criticism was to be provided. But opposition continued. During the war India made common cause with the Empire, and made large contributions in men to the non-combatant services of the allies. This required concessions to India, as it did to the dominions and other parts of the imperial system.

In August 1917, the government made an important announcement through Mr. E. S. Montagu, Secretary of State for India. The two governments were said to be in complete accord as regards the increasing association of Indians in every branch of administration, and as regards "the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire." Mr. Montagu accepted the invitation of the Viceroy to visit India in order to discuss these proposed steps with the Viceroy, the government of India, and the local governmental bodies.

It was distinctly understood that this could be done only by "successive stages." He added: "The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples, must be judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility." Lord Chelmsford, the Viceroy, conducted Mr. Montagu through India, where he discussed the questions of the day with all sorts of people. On July 1, 1918, there was published the celebrated *Montagu-Chelmsford Report on Indian Constitutional Reform.* Its main elements were included in the Government of India Act, 1919.

The major reforms were introduced in the provinces, where a dual character of government, called "diarchy," was to prevail. "Reserved" subjects, as defined in the Act, were to remain under the control of the Executive Council of two members, one of whom should be an Indian. All other subjects were "transferred" to ministers who should be chosen by the legislative council, having the confidence of the majority and responsible to it. A minister may resign should his advice not be accepted by the governor.

The governor retains the constitutional right to dismiss a minister. The right to dissolve was retained as a last resort, with the understanding that the governor must accept the advice of the new ministers on the question at issue. The governor was to maintain a balance between the two branches of government, and to encourage joint deliberation, but to hold each to its own responsibility. The subjects so "transferred" were local government, education, public health and medical administration, agriculture, industrial development, and (except in Assam) public works and excise. At least seventy per cent of the legislatures are to be elected by the people. Not more than one-fifth may be officials. A non-official president of the assemblies is to be appointed first by the governor, but thereafter elected by the assemblies. The budget is voted on by the legislature, but the governor may restore any provision affecting a "reserved subject" which has been modified or eliminated. The budget is regarded as a single pool for both the ministers and the executive, administering, respectively, the transferred and the reserved powers. The governor in case of a dispute between the two executive bodies may himself allocate the revenues between the two bodies.

The reforms in the central Indian government were not so far-reaching. The Viceroy and his Executive Council continue as the resident executive authority, and are responsible to the parliament through the Secretary of State for India and the India Council. The legislature contains a Council of State—a sort of upper-chamber revising body —made up of not more than sixty members, of whom only twenty may be officials. The lower legislative assembly contains 144 members, of whom two-thirds must be elected. The budget and ordinary legislation are submitted to both houses, as in the case of the provincial legislatures, but the Viceroy may end a deadlock by putting his own rules into effect. The Indian Privy Council was established to reward and use "ripe wisdom and meritorious service." The

Council of Princes is to be a connecting link between the British Government and the Native States.

After ten years, a commission is now visiting India to see whether or not she has lived up to the light she has had and to judge whether other advances along the lines of self-government have been made. These measures were intended to be experimental and to establish a transitional stage between a dependency and a dominion. Indeed, the right of the Viceroy and the provincial governors to enact legislation is reserved, should this authority be needed and should the reforms not work well. If they do work well, it is the plan to extend the transferred subjects in the provinces until there are no reserved ones. Then, upon demonstrated capacity to rule in the provinces, the plan is to extend self-government to India along the same lines. But such fitness must be proved. The introduction and application of these reforms has been delayed by uprisings in India, due in part to the philosophy and teachings of Gandhi, who has taught non-co-operation with the British Government. Passive resistance fanned the flames of revolt, and the attainment by India of the dominion status is still in the future.

In pursuance of this plan, a royal commission, headed by Sir John Simon, is considering the claims of India for a greater measure of self-government. The problem of the native states, including their relation to Great Britain and to British India, is being handled by a committee under the chairmanship of Sir Harcourt Butler. The spirit of nationalism, whether seeking absolute separation from the Empire or the status of a self-governing dominion, is abroad in the land. Thus the future welfare of upward of three hundred million people hangs in the balance.

E. *The independence of Egypt.*—The British have for a long time had an interest in Egypt. The Suez Canal project was perhaps the leading motive. The cotton fields are looked upon as a legitimate source of Britain's raw material supply. The Cape-to-Cairo project intrigued the

British as empire-builders. As they controlled Africa from one of its extremities, why not from the other? The British occupation formally took place in 1882, mainly for the purpose of restoring order. But the occupation continued. There was no formal definition of the relations between the Egyptian Government and the British Government. Egypt continued under the nominal suzerainty of the Sultan of Turkey. The British representative was merely an "agent" who "advised" the government of the Khedive. When Turkey and England became enemies in 1914, England announced that Egypt was under her special protection. This status of protectorate was confirmed by the Treaty of Versailles. Egyptian representatives were not heard at the Peace Conference. This disappointment, followed by the deportation of some leaders of the nationalist movement, caused the populace to take definite steps in opposition to the British soldiery. A condition of disorder reigned.

Lord Milner was sent as Commissioner to report on conditions and to make recommendations. He recommended that the pre-war condition of independence be restored, but that important reservations touching such questions as imperial communications, the protection of British and foreign interests in Egypt, and the problems of British in the Egyptian Civil Service should be made. The term and conditions of protectorate should be definitely abandoned as an implication and an actuality of servitude. These matters were to be set forth in a treaty, which should define in express terms the relations between the two governments. Neither side would agree to the demands of the other. Lord Allenby, the British High Commissioner, urged the government to recognize Egyptian independence by a unilateral act; it was something which could not be dealt with by treaty, he declared.

He visited London, and convinced the Prime Minister of the wisdom of his proposed course. A declaration to the

government of Egypt provided for (1) the termination of the British protectorate and the declaration of Egypt as an independent sovereign state; (2) the withdrawal of martial law as proclaimed in 1914 after the Egyptian government shall have enacted an indemnity bill applying to all inhabitants of Egypt; and (3) allocation of certain matters, such as (*a*) security of imperial communications, (*b*) the defense of Egypt against foreign aggression or interference, (*c*) the protection of foreign interests and minorities, and (*d*) the Sudan, to the British government until their solution could be worked out in collaboration with the government of Egypt.

The High Commissioner was given the authority to suspend the martial law, as it affected political rights, in order to facilitate the enactment of the indemnity law. As a result of this declaration, the independence of Egypt was proclaimed at Cairo on March 15, 1922, and the Sultan, formerly the Khedive, became the King of Egypt in title and rôle. This arrangement is a counsel of near-perfection. Much remains to be done before the condition of independence becomes a reality.[1] The Egyptian parliament has taken itself seriously, and has pruned the number of embassies and consulates which it established at the first blush of independence. The state has gone into the business of cotton-marketing. A nationalist movement, something like that of Turkey, seems under way, and reforms in government, administration, and education are indicated. The special objective seems to be the elimination of foreign influence.

F. *The establishment of the Irish Free State.*—The

[1] Great Britain, after considerable negotiations, intervened again in Egyptian affairs. The Nationalist premier was displaced by a more conciliatory one, who submitted to the dismissal of the Nationalist parliament. The Nationalists continue their agitation even though forbidden to do so, and have declared the present régime to be unconstitutional. While the intervention is professed to be in the interest of the reserved subjects of the proclamation, it is clearly opposed to the spirit and announced purpose of the declaration itself.

"Irish question" has been with the British government until very recent years. Until the time of the Union, Ireland had a parliament of her own. From then until now, the Irish have agitated for a measure of self-government and for greater liberty for the Catholic population. Efforts were made to pass home-rule bills. The Parliament Act was passed in 1911 with the aid of Irish votes. The Liberals passed the Home Rule Bill in 1914, but it was agreed by supplementary legislation that the measure should be suspended during the war. The south of Ireland proved hostile during the war and fell into the hands of Sinn Feiners, who held the island under their influence from 1916 on. Thereupon the Act of 1914 was repealed, and the Better-Government of Ireland Act was passed in 1920. There were to be established two parliaments, one at Belfast and one at Dublin, each to choose its responsible executives. Each parliament was to send twenty representatives to an Ireland Council, which should be the foundation of an all-Ireland parliament.

The North of Ireland accepted the arrangement, and set to work on the new federal principle. It was quite different in the South. The Sinn Fein revolutionists wanted a republic only. The nationalists wanted a united Ireland, and resented any suggestion of a partition. Nothing was done to work for the measure, and active hostilities were carried on against the British forces. After much trouble, the Irish agreed to negotiate with the government at London. A treaty was signed on December 26, 1921. The clauses were approved by the Parliament at Westminster and by the Dail Eireann. In October 1922, the Irish parliament approved a constitution. The British Parliament gave its consent to the measure on December 5, 1922. On the next day the dominion status was proclaimed by the Crown, and the governor-general sworn in. But a day later the parliament for North Ireland, in pursuance of its treaty rights, seceded from the Irish Free State.

The Constitution of the Irish Free State declares Ireland (the Free State) to be "a co-equal member of the community of nations forming the British Commonwealth of Nations." The usual private rights and immunities are given. No law endowing any religion, or prohibiting or restricting its free exercise, or permitting preference or prejudice can be passed. The legislative power is given to the king and the lower house (Dail Eireann) and the upper house (Seanad Eireann). Suffrage is given, irrespective of sex, to all above twenty-one for the Dail elections and above thirty for the Seanad elections.

The Dail is composed of not less than one member for every 30,000 and not more than one for every 20,000. Each university is entitled to three members. The Dail may be dissolved by the ministry before the expiration of the four-year term. But the ministry cannot do so if it has lost the confidence of the lower house. The Seanad is composed of sixty members, who must be at least thirty-five years of age. They serve for twelve years. One-fourth of the members are chosen every three years from lists of persons who are deemed to have a special fitness for the position. In money legislation, the Dail has complete power. The Seanad may only consider and recommend. Ordinary legislation may be amended by the Seanad, but the Dail may assert its authority after a time.

The governor-general may, as a constitutional act, withhold his consent, and all bills must have the approval of the king in council within a year. An initiative and referendum is provided for. Executive power is vested in the king in accordance with the practice in the Dominion of Canada. The governor-general acts for the Crown and is aided by an executive council, responsible to the Dail Eireann and made up of from five to seven ministers appointed by the governor-general on nomination by the president of the executive council. As members of the Dail, they may attend and speak in the Seanad.

The Supreme Court is one of appeal from all decisions of the High Court. Its pronouncements are final. The right of appeal to the Judicial Committee of the Privy Council is not prejudiced by this rule. The judges are suggested by the executive council and enjoy life tenure except in cases of misbehavior or incapacity, and their appointment must be agreed to by both houses of the legislature. The judicial power extends to the validity of any law having regard to the provisions of the Constitution. The Constitution may be amended by the ordinary legislation of both houses for a period of eight years after the instrument comes into effect. It must pass the two houses and receive the approval of either a majority of the registered voters or of two-thirds of the votes cast at the election. The Constitution may also be amended by popular initiative.

G. *British mandated territories.*—The territories under British mandate concern the Empire in its international rather than its constitutional relations. But the authority of the Empire must be called into play, and, in several cases, the mandates are virtually merged into the territory of the mandatory. Palestine and Mesopotamia, formerly under the suzerainty of Turkey, have been assigned by the League of Nations to Great Britain as Class A mandates. The mandatory is presumed to give only advice and supervision until this type of territory is able to stand alone. In the case of Palestine, the British government has undertaken to provide a national home for the Jewish people through the establishment of certain political, administrative, and economic conditions, to develop self-governing institutions, and to protect the civil and religious rights of all inhabitants without regard to faith or race. The British government has appointed a High Commissioner, who is advised by an appointed council. The people elect a legislative council by an indirect process. Mesopotamia does not share this solicitude for self-determination on the part

of the British. Great Britain is presumed to be the trustee or guardian of her interests, but as a preliminary to her development as an independent state. The people of Mesopotamia did not concur in the award of their country to Great Britain as a mandated territory. Accordingly, by agreement between the mandate and the mandatory, Mesopotamia has become the Kingdom of Iraq, under the protection of Great Britain, and under conditions which do not infringe her sovereignty. This treaty has been approved by the League of Nations. The obligations of Great Britain are to cease upon the entry of Iraq into the League of Nations.

Great Britain received her share of the African possessions of Germany. German Southwest Africa is now known as the Southwest Protectorate, and has been awarded to the Union of South Africa as a Class C mandate, which is administered "under the laws of the mandatory as integral portions of its territory, subject to safeguards in the interest of the indigenous populations." Great Britain has a part of German East Africa, known as Tanganyika, and a part of West Africa known as Togoland and the Cameroons. Both are Class B mandates. They are not integral parts of the territory of the mandatory. Moreover, equal commercial opportunity must be assured to other members of the League.

The Pacific Islands south of the Equator were assigned to Britain or the dominions. Australia is mandatory for the Bismarck Archipelago, German New Guinea, and the German Solomon Islands. New Zealand received German Samoa. The island of Nauru was assigned to Great Britain. All are Class C mandates. They are administered as parts of the domains of the mandatories. The idea of trusteeship seems to be in the background.

H. *The New British Empire, under agreements of the Imperial Conference of 1926.*—The Constitutional Convention which drafted the American Constitution in 1787

has probably received more attention than any similar constituent assembly in the world. There can be little doubt that the Imperial Conference of Great Britain of 1926 will rank with the American Constitutional Convention as a truly historic constitutional gathering. The document which it drafted is formally known as the report of the Inter-Imperial Relations Committee of the Imperial Conference. But after all it is a constitution which has provided the basis for imperial reorganization, and there is little doubt that its definition of relations, imperial and international, will guide the dominions for years to come.

The dominions affected by the instrument are Canada, Australia, Ireland, Newfoundland, New Zealand, and South Africa. The partnership has for several years been growing stronger in spirit but weaker and more nebulous in constitutional ties. The modern urge toward nationalism and the steady growth toward internationalism have interfered with previous notions of what the imperial relations and status should be. It is no little achievement to define in a single document the relations between the partners of the Empire, and also between the Empire, its members, and foreign states. The dominant partnership of the United Kingdom seems to be definitely relinquished for a position of equality with the others, but retaining a titular headship, as *primus inter pares*. Good will and mutual respect is clearly the basis of the new reorganization. But it has not been attained in a day. It has been a historic growth. Other states and combinations of states cannot remain unaffected by this masterly settlement of difficult and trying problems. Only a digest of the document can be given here.

The committee found its questions to be long and intricate, and to involve a consideration of fundamental principles affecting the relations of the parts of the Empire *inter se* and the relations of each part to foreign nations. It recognized that it would be futile to lay down a consti-

tution for the entire Empire, because of its widely scattered parts with different characteristics, with different traditions, and at different stages of evolution. The Empire as a whole could not be classified, and it was different from any other political organization, past or present.

Constitutionally speaking, the dominions did have a common element, and could be reduced to a constitutional position. Their position and relation were defined as follows: They are "autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any respect of their domestic or external affairs, though united by a common allegiance to the crown and freely associated as members of the British Commonwealth of Nations." This equality of status could not have been won by federation on account of geography and other conditions but has been achieved by way of autonomy. "Every self-governing member of the empire is now master of its own destiny."

The foundations of the Empire rest upon positive ideals, not negations. "Free institutions are its life-blood; free co-operation is its instrument. Peace, security, and progress are among its objects." Equality of status is represented to be the root-principle governing inter-imperial relations. But this need not extend to function, and a machinery must be adapted, especially in matters of diplomacy and defense, to the changing circumstances of the world. A political theory has been stated, and also applied to the common needs. As the relation of India to the Empire is defined by the Government of India Act of 1919, it was excluded from the Conference.

A large part of the report dealt with the definition of the relations between different parts of the Empire. An effort was made to adapt practice to principle and to make the existing administrative, legislative, and judicial forms conform to the ideals of the Empire. In view of the changed condition of things due to the establishment of the

Irish Free State, it was recommended that the title of the king be changed to conform with Ireland's withdrawal from membership in the United Kingdom. The governors-general of the dominions, in keeping with the new position of complete equality, are to act as the representatives of the Crown and to sustain the same relation to their respective dominion governments as does His Majesty to the government of Great Britain. Each will therefore cease to be the channel of communication between British government and dominion, negotiations henceforth being direct.

As regards the operation of dominion legislation, it was agreed in principle that the Crown should not disallow the acts of a dominion parliament against the views of the government of that dominion; that the dominion government, rather than His Majesty's Government, should advise the Crown in all matters relating to its own affairs, without future reference to the government of Great Britain; that the Westminster Parliament should pass laws having effect in the dominions only with the consent of the dominion concerned; and that the legislation of one dominion can have effect only in that dominion, except by previous consultation and agreement.

An expert committee is to be set up to determine how these principles may be put into effect. A subcommittee is to report on the question of imperial merchant-shipping legislation. Legislation having a general application must be passed by the Westminster Parliament, but it must be with the consent of the dominions affected. Appeals from judgments in the dominions to the Judicial Committee of the Privy Council were discussed. It appeared that His Majesty's Government did not intend that the conditions of appeal should be other than in keeping with the wishes of the dominion primarily affected. It was agreed that changes, while primarily affecting one part, raised questions of interest to all, and should be made only after consultation and discussion.

Relations with foreign countries were also defined. Intentions to negotiate a treaty must be communicated by the initiating government to the other dominions. Silence after a reasonable notice is substantial evidence of acceptability. No active obligations binding the other dominions may be assumed without their definite consent. Where ratification is desired by the initiating government of the other dominions, it may be assumed unless there is adverse comment. A dominion requiring a share in negotiations may name its plenipotentiary to represent it directly. To give effect to the equal status of the dominions in the conclusion of a treaty, it shall be made and signed in the name of the heads of the states, rather than in the name of the Empire. The name of the king when so used can only be a symbol of the special relationship between the different parts of the Empire. International agreements applying to different parts of the Empire should not be in the form of treaties between the heads of states. Full powers of negotiation are to be issued by the king on the advice of the government concerned, indicating the part of the Empire they are to represent. The signature of the treaty should follow the same order as the designation of the governments in the preamble, that is, by heads of states. Multilateral treaties, negotiated under the auspices of the League of Nations or otherwise and containing ratification clauses requiring the deposit of a certain number of ratifications for their effectiveness, should comprehend the dominions as separate nations or separate members of the League and not as making in their totality a single Empire.

In League of Nations conferences, each member of the League, including the dominions, receives an individual invitation. In the case of conferences called by foreign governments, the form and degree of participation must be determined by the nature of the business of the conference, the form of the invitation, and other related matters. In technical conferences, special and individual invitations

and representation should be secured. In political conferences, the special circumstances would be studied to determine the course of action. Each dominion must determine whether it shall be represented, especially in matters where active obligations may be assumed. If it so decides, it may be represented in one of three ways: (*a*) through a common plenipotentiary, representing and acting on the advice of all participating parts of the Empire, and receiving his full powers therefrom; (*b*) by a single imperial delegation made up of representatives from the participating units, as at the Washington Conference in 1921; or (*c*) by separate delegations representing each participating unit at the conference.

In the general conduct of foreign policy, the major responsibility now and for some time to come must rest with His Majesty's government in Great Britain. But it is agreed that the dominions may maintain independent diplomatic representation where their interests dictate, especially in the border countries. Manifestations of this need are found in the Canadian Minister at Washington. But no active obligations may be assumed for other dominions, and the principles of consultation and discussion governing treaty negotiation should obtain here. Exequaturs will not be issued to foreign consuls in the dominions in the future except with the consent of the dominion government concerned and with the counter-signature of the dominion minister. The appointment of an Irish minister to Washington and to Canada raised the question of the channel of communication between the dominion governments and foreign governments. Except where dominion ministers were accredited to heads of foreign states, it was agreed that the existing diplomatic channels (the British Foreign Office and the diplomatic service) should be used between the dominion and foreign governments, in matters of general and political concern.

Since the imperial conferences can meet only infre-

quently, the system of communication and consultation between Britain and the dominions and the dominions *inter se* was discussed. It was recommended that a system of personal contact be worked out by the representatives of the parts of the Empire, both in London and at the dominion capitals. The system of direct communication from government to government shall not be displaced. Such a system is necessary to reveal the atmosphere in which official correspondence is conducted.

As regards the acceptance of the principle of the compulsory arbitration of international disputes under Article 36 of the Statute of the Permanent Court of International Justice, it was agreed that the acceptance of such an obligation was premature at this juncture. The Conference agreed with the special conference of signatories to consider American reservations to the Protocol of the Permanent Court of International Justice.[1] The Conference unanimously commended the policy of Locarno as a "successful contribution toward the promotion of the peace of the world."

Even the enemies of Great Britain must concede that whatever criticism may be made against British imperialistic expansion in its formative period, the remarkably successful effort of the British government to develop an administrative system adapted to the needs of every unit of the Empire and at the same time to fit these units into a real commonwealth of nations has to a large extent nullified the case against Great Britain as an imperialistic power.

[1] The Conference of Signatories, held at Geneva in September 1926, recommended the acceptance of the American reservations should the American government agree that an equal and not a special status was desired by the United States.

CHAPTER XXI

AMERICAN IMPERIALISM IN THE PHILIPPINE ISLANDS

American imperialism can hardly be judged by European standards. In colonial affairs, as in diplomacy, the policies of Europe and America have been as opposite as the poles. America's deliberate policy from the beginning was to avoid rather than to seek colonial possessions, which would require the maintenance of military establishments and would possibly involve the country in war. Living for generations in the midst of colonial rivalries, the young nation wanted neither the colonies nor the troubles which would come in their train. Her policy of expansion for a century merely meant the acquisition, in the main by peaceful negotiation and purchase, of adjacent territories, not only to accommodate the overflow of Americans from the older states, but to remove from her continent the danger of colonial wars. Such conflicts would in the end involve the United States. The territory thus acquired has been incorporated into the Union as definite units in the federal system, after a probational period as "territories." Other acquisitions, such as Alaska, Hawaii, and Porto Rico, have been incorporated as "territories." Their citizens have American citizenship, and the guaranties of the American Constitution extend to them. Whether or not a condition of statehood is desirable for these units must be determined in the future. Politically speaking, their lot is as comfortable and as desirable as that of the ordinary American citizen, and, while excluded from the federal elections, they have almost complete control of their governments.

Imperialism, as I have elected to use the term, signifies a condition of dependence and a constitutional relation between the governed and the ruling state. It is an error to describe an international relation as an imperialistic one

unless it is clearly a blind for imperialistic control. Indeed, our foremost foreign policy was to exclude colonial establishments by European states from the new world and to encourage the establishment and growth of independent states. The measures of control we have assumed in Central America and the Caribbean have been taken in pursuance of this policy. Some call this imperialism, and describe our more recent relations as the very negation of the former policy. It should be remembered that these measures have been taken, not to make these countries dependent, but to keep them from a condition of dependence on the powers of Europe, and to preserve their independence. They have not been reduced to colonies. These situations will be examined later, but not as examples of imperialism as we understand it.

The United States is openly charged with the practice of imperialism in the Philippine Islands. By its occupation of Cuba it effected the abatement of a nuisance at its very doors which for many years had been a source of annoyance. In the end the Cubans were given their independence, in keeping with the resolution of intervention. In the case of the Philippines, the United States undertook a task of ordering affairs in a region remote from its declared interest as disclosed by our refusal to assume the same sort of task under the authority of the League of Nations. The pledge of eventual independence seems to many to have been completely ignored. Moreover, the attitude of some of the bureaucracy toward the political capacity of the Filipinos indicates the intent of many to continue the condition of dependence as long as possible.

The occupation of the Philippines as a war measure raised the question of their future disposition. President McKinley declared that after many communions with God and his conscience until after midnight, light eventually broke. It was clear to him (1) that it would be cowardly and dishonorable to give the islands back to Spain; (2)

that it would be bad business and discreditable to turn them over to France or Germany—our commercial rivals in the Orient; (3) that it would be anarchy and misrule to leave them by themselves, unfit for self-government; and (4) "that there was nothing left for us to do but to take them all, and to educate the Filipinos, and uplift and civilize and Christianize them as our fellowmen for whom Christ died."

Professor Moon finds in this explanation words "which touch almost every string in the familiar harmony of imperialism." In the alternatives and the conclusion discussed by the President, he finds these respective "strings": (1) national honor; (2) economic nationalism; (3) racial superiority; and (4) altruism, the "white man's burden," and missionary zeal. There is little doubt that all of these motives played their part in the final demand upon the Spanish peace commissioners. As the negotiations progressed, the American commissioners were emboldened to ask for the entire archipelago. Spain was at length paid twenty million dollars in return for the islands. Military occupation continued during a war between the United States and the adherents of independence led by Aguinaldo. In 1902, William Howard Taft became the first governor general under a civil administration.

The administration of the Philippine Islands by the United States has been, on the whole, a creditable one. The task of education was stupendous, requiring initiative, resourcefulness, and even privation on the part of the educational forces. The Bureau of Education, under the directorship of Dr. David P. Barrows, later President of the University of California, laid the foundations for one of the best educational systems of the world. The school attendance has increased from about 50,000 at the time of the occupation to 1,300,000 today. The Filipinos themselves are proud of their system of education and will do all in their power to support it. Disorder, constant and devastating under Spanish rule, has been removed under

the tranquilizing influence of the native constabulary. The native has learned to appreciate the advantages of orderly and stable conditions. Public works, highways, and means of communication have been encouraged. Good medical and sanitary conditions have displaced the frequent epidemics and the pest-holes of the past. Justice is substantially administered. Scientific agriculture has been promoted. The first civil administration of the islands was most noteworthy in personnel and in achievement. The members of the services were devoted to their task. But they developed it into a mission and a cult, thinking the natives unfit to rule and of themselves as their rulers. They became infallible authorities on all things Philippine. Thus began the first pro-consular class in the United States. They should not be the judges of Philippine fitness for self-rule.

What measure of self-government has been introduced? When will the American government redeem its pledge of independence to the people of the Philippines? After a few years of autocratic but, on the whole, benevolent government, there was established in 1907 a legislature. The lower house was elected by about 100,000 of the electorate, while the upper house was composed of the members of the Philippine Commission, the American cabinet for the governor-general. In 1913, the Filipinos began to realize a part of their dream for self-rule. President Wilson was committed to the policy of a larger degree of autonomy in the islands. Governor-General Harrison soon appointed a majority of natives to the Commission—the members of which were holders of the executive posts. In this manner the upper house—which was the Commission— came under Philippine control. The next step was to make the administration articulate with the plans of the legislative majority. This was done through the creation of the Council of State, made up of the governor-general, the presiding officers of the legislative chambers, and the heads of the executive departments. These officials were

in a sense responsible to the legislature, and really held their posts at its pleasure. The governor-general gave over the reins of government to the Filipinos, and became a sort of local constitutional king, with the actual executive authority exercised elsewhere.

The Jones Law of 1916 abolished the Philippine Commission, established an upper legislative body formally elected by the people, and provided for the progressive extension of the principle of self-rule and for the Filipinization of the administrative services. In fact, it legalized a *de facto* condition which had existed for three years. This bill, however, did not intend that the governor-general should completely abdicate his functions nor that the parliamentary type of government should prevail. It was intended that a presidential form should be established, where the separation of powers, checks and balances, and a proper division of authority would govern. This the Filipinos did not want, and they continued their near-parliamentary régime until the close of the Wilson administration. Wilson, in his last message to Congress, recommended that they be given an independent status.

The Jones Bill promised eventual independence. Its preamble declared: "it has always been the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein. . . . ." Moved by these representations, a Philippine mission visited President Harding. The President declared that he was not ready to recommend their independence to Congress, but assured them that no backward step would be taken and that no diminution of their domestic control was in view. Major-General Leonard Wood and W. Cameron Forbes, a former governor-general, were constituted the Wood-Forbes Commission, to investigate and report on conditions as they obtained in the islands. The report of this commission indicated economic, educa-

tional, and social progress, and a measure of capacity to rule among certain classes. But the departments of government had lost in efficiency during the previous administration under Philippine officials and Governor-General Harrison. Their economic and defense organizations would not admit of the establishment of an independent government. The report had merit, but was in part a political document, designed to discredit the previous administration of the islands. Wood and Forbes, pro-consular in experience and cast of mind, were impatient with manifestations of a desire for independence and with evidence of fitness to rule. The Philippine Parliamentary Mission presented a reply to this report which represented the situation in a different light.

With the appointment of General Wood as Governor-General, trouble began. He took over the powers of the executive under the Jones Law, and assumed that presidential rather than parliamentary features should obtain. It is not merely a conflict between two types of government. With the presidential system, the American governor-general has the whip hand. With the parliamentary plan, the native legislature not only functions but in ordinary matters can control. Conflicts over the budget continued until the Council of State resigned in 1923, as a protest against the policy of the governor-general. Since then, there has been presidential government in the archipelago. President Coolidge told the petitioners of the "unsought" responsibility which came through the fortunes of war. Moreover, they could not expect nor did they deserve independence until they recognized the distinctions between the executive, the judicial, and the legislative departments. Indeed, the parliamentary plan seems to have produced a greater degree of stability!

Arguments against Philippine independence are explained chiefly by the different classes who assert their interests. Those of the pro-consular class, who have had

experience in Philippine administration, seem uniformly opposed to it. Next is the school of Americans who hold to the theory of a mission in the Philippines and seek to have it perpetuated. The professional military classes are opposed for reasons of national defense. American business interests prefer a continuance of American rule as a business stabilizer. Aliens resident in the archipelago for commercial reasons also oppose independence. The Catholic authorities prefer American rule. Opposition therefore seems confined to alien official, religious, and commercial classes, who have a mandate to govern, a mission to convert, or a bargain to drive. The arguments follow the directions which have been current in the United States for a generation. It is charged that the political leaders seek, not good of the people and the country, but their own welfare; that the Malay people do not have business ability or capacity; that a Philippine government could not maintain a sound "business administration" in their public affairs; that the islands would, in case of independence, lose their American markets and the present large use of American capital; that difference of language and faith prevent the unity essential to national statehood; that the advantages of a benevolent administration would be lost.

The majority of literate Filipinos count themselves in the independence movement. Every strong party has an independence plank. The Nacionalista party demands it immediately. Some favor its accomplishment by progressive, but nevertheless certain stages. Others would have a state autonomous in domestic matters but under American protection in defense and diplomacy for an extended period. But the goal is independence. They answer the foregoing arguments by declaring that the alien and special interests of the classes concerned would be adversely affected. They do not fear seizure by any foreign power in case of the relinquishment of American control, and feel that they could obtain substantial guaranties of safety

and security as a member of the League of Nations. Diversities of language and faith, while they exist, are not sufficient to prevent national unity. Indeed, education is spreading the knowledge of English and Spanish, and descent from a common stock (Malay) is a positive unifying influence. Any loss entailed due to a disappearance of American markets and capital would be made up by the acquisition of other markets and investments. This situation is regarded as no reason for preventing the realization of a national aim. Business incapacity is a charge which is asserted but not altogether proved, and a risk the Philippine people are willing to assume. Political incapacity and the lack of efficiency in public affairs is answered by pointing to seven years of comparative home rule, during which period there was a prosperous condition in the islands and no disconcerting ruptures occurred between the Philippine government and the representative of the United States. Moreover, it is pointed out that the possibilities of rubber culture in the southern part of the archipelago have served to accentuate the agitation for American rule. It is also charged that the interest of America is that of the commercial and industrial classes which profit from investments there, from the Philippine markets, and from the preferential treatment of American goods entering the islands.

Colonel Carmi A. Thompson was sent by President Coolidge in 1926 to look into Philippine conditions and to make a report to the executive upon his return. His report is much more objective and less political than the Wood-Forbes report. According to Thompson, the central problem of the islands is the political one. The country, while rich in resources which would under right conditions make it wealthy and prosperous, lacks the prime essentials of capital and business energy. Political uncertainty prevents the flow of capital on account of the risks involved, and the natives discourage it from America on account of commercial exploitation and political domination. Business is

at a standstill. Labor must emigrate to find suitable employment. The national revenues are inadequate, and they cannot be increased until there is a greater national wealth. The economic freedom and salvation of the islands awaits an adjustment of the political question.

The first phase of the political problem had to do with the popular demand for independence. Colonel Thompson opposed this for the following reasons: (1) the Philippines lack the financial resources necessary to maintain an independent government; (2) the lack of a common language and other reasons prevent the homogeneity and solidarity which are prime requisites of a strong democratic nation; (3) from the standpoint of American commercial interests in the Far East, it would be unwise to relinquish control now, in view of our increased volume of trade in Asia; (4) the Philippines are needed as a commercial base; (5) abandonment of them at this time might complicate international relations in the Orient; (6) complete and immediate independence would end the free trade relationship between the United States and the islands, resulting in economic disaster for the Philippines. It must be admitted that imperialistic reasons seem to constitute the bulk of causes for our turning a deaf ear to the independence movement.

The second phase of the political problem was the breach between the governor-general and the legislature. Neither has confidence in the other, and constructive legislation is now impossible. The legislature has refused confirmation of many appointments, and the measures suggested by the governor-general have been in the main rejected. The governor-general has also vetoed a number of laws, some striking at his power, and others which are ordinary legislation. Enlargement of his authority would only widen the breach. For the prevailing friction there is a division of responsibility between the executive and the legislative branches. The legislature has attempted to

resist the governor-general in his seeking to exercise the powers under the Jones Bill, surrendered by his predecessor. In this effort he has been sustained by the government at Washington. But the military atmosphere of the present administration is revolting to the Filipinos. The military men lack training and experience in civil administration, and this leads to suspicion and the charge of military rule. The co-ordination of all our overseas possessions in a single bureau under a department of our civil administration would remove much of the present trouble. "The United States should not be swerved from these purposes either by Americans who may desire to exploit the Philippines or by Filipinos who are demanding a premature relinquishment of American sovereignty over the islands."

Accordingly, Mr. Thompson recommended (1) the reestablishment of co-operation between the executive and the legislative branches of the government; (2) the indefinite postponement of absolute independence; (3) the establishment of an independent civil department for the islands and other oversea possessions; (4) displacement of the present military advisers by civil advisers; (5) continuation of Mindanao and Sulu as a part of the archipelago, and strengthening of American control in the Moro country; (6) extension of the Federal Reserve System to the islands; (7) establishment of federal land banks to end the usurious rates on farm loans which now obtain; (8) establishment of agricultural experiment stations under the Department of Agriculture; (9) retention of the organic act, known as the Jones Bill; (10) amendment of the land laws by the Philippine legislature so as to bring in capital and business experience; (11) no amendment of the land laws by Congress; and (12) withdrawal of the Philippine government from private business as soon as possible.

Most Americans who give thought to the question prefer that the United States keep its pledge but not in a manner so peremptory as to defeat its purpose either

through revolution or from invasion from without. It is hardly the function of the United States to preserve a presidential form of government there. The test of independence is not that, but stability. Certain positive advantages would seem to flow from the establishment of a parliamentary scheme. It has been tried in effect, if not in form, and has satisfied the Filipinos. They will continue to agitate for its restoration. The reaffirmation of the theory of the separation of powers has brought, not harmony, but continued discord.

It does not seem to appear to the American government as yet that the presidential system is successful where the people may, by voting, place the executive and the legislative branches in a position of collaboration by selecting them from the same political party. On the other hand, to remove the executive arbitrarily from the control of the people but to leave to them the choice of the legislature is to invite conflict between the two. The presidential government as it obtains here is not analogous, because the President is an American chosen by the electorate. The British government learned that there must be a union of powers if colonial government would be successful. Such a plan would make political leadership responsible and would stand or fall on the merits and achievements of that leadership. It would not be miscellaneous, scattered, and irresponsible. Enough authority could be retained by the United States to prevent any crises or *ultra vires* acts. Nor is it altogether within the function of the United States government to forbid or restrain the Philippine government if it seeks to go into private business. Our own concepts and standards should not be forced on them.

Then, as Colonel Thompson suggests, the administration should be purged of military officials and advisers, who urge and practice the cult of imperialism. The Philippines do not present the serious problem we find in India. They have a common race, and a common faith followed

by ten of their eleven millions of people. They already know the teachings and the influence of Christianity, and have had contact with Western civilization while surrounded by a Mohammedan and Buddhist world.

General Wood returned to the United States on May 28, 1927. He was said to have earned a rest, and also a conference with the President was needed. His six years of administration had been fairly successful, in spite of the deadlock between the executive and the legislature. His government had functioned. However, he had not removed this unfortunate and intolerable situation. It was announced that he would return to his post, but death intervened. Mr. Coolidge appointed Henry L. Stimson,[1] of New York, as his successor in January 1928. The Stimson administration has been at peace rather than at loggerheads with the Philippine government. But the basic problem remains unsolved. Several deliberate and progressive steps have been taken by Mr. Stimson to improve relations between the executive and the legislative branches of the government. Perhaps the most significant step is the establishment of a Council of State, under the chairmanship of the governor-general, and composed of the president of the Philippine senate, the speaker of the house of representatives, the majority leaders of the two houses, and the heads of the six executive departments. It is purely an advisory body. An improved personnel and a more conciliatory method are producing better results and good feeling. But Filipino aspirations for independence, and for a parliamentary government, are ignored.

Their connection with us will be an issue until settled. Only a generous consideration of their claims, and a faithful and wise discharge of our pledge to them can redeem a charge of imperialism laid at our door. Moreover, only a failure to do so can justify the charge.

[1] Mr. Stimson has been designated Secretary of State in the Cabinet of President Herbert Hoover.

CHAPTER XXII

IMPERIALISM IN LATIN AMERICA

There is a studied effort on the part of many people, citizens both of the United States and of the countries of Latin America, to represent the policy of this country with respect to these Latin-American states as purely imperialistic, veiled under a thin veneer of an international relationship. The original purposes of the Monroe Doctrine are agreed to be desirable for the American hemisphere. Moreover, there is little complaint with respect to its application to the states of South America, especially the larger ones, which are clearly able to stand alone. Certain special situations exist in the republics of the Caribbean area and in Mexico which require the concrete solicitude of the United States in a more definite form than by mere expressions of sentimental interest. It must take the form of positive aid and, in some cases, of temporary control. Do these measures of control amount to imperialism? Are they inspired by an imperialistic policy? And if not, is their result imperialism despite a benevolent purpose? Let the record speak.

The circumstances of our interest in Cuba are well known. The resolution of intervention, which decreed the war with Spain, set forth: (1) that the Cuban people are and of right ought to be free and independent; (2) that Spain should relinquish its authority and withdraw its forces; (3) that the President should use the military forces of the nation to carry the resolution into effect; and (4) "that the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island, except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people." President McKinley, in discussing the possible

alternatives before the United States with respect to the problem of Cuba, said: "I speak not of forcible annexation, for that cannot be thought of. That, by our code of morality, would be criminal aggression."

After the war with Spain had been concluded, it became necessary to define our relations with Cuba in order to carry out the purposes set forth in the resolution of intervention, and in order to keep faith with Spain, as regards certain terms of the Treaty of Peace. The independence of Cuba was established and its political relations with the United States were determined by the treaty of March 22, 1903, which embodied the so-called Platt Amendment to the act of Congress of March 21, 1901, making appropriations for the support of the United States Army. The President was therefore authorized to leave the government and control of the island to its people as soon as a government should have been established under a constitution which should define the future relations of the United States with Cuba, in conformity with the conditions which the amendments to the treaty prescribed.

These conditions were, in substance, (1) that Cuba never should impair her independence or release any territory to any foreign power; (2) that she should assume no financial burdens which her revenues could not meet; (3) that the United States might intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for the discharge of the obligations which the United States had assumed on the part of Cuba under the treaty of peace with Spain; (4) that the sanitary measures, begun by the United States, should be carried out; and (5) that certain lands should be leased to the United States for coaling or naval stations. These conditions were appended to the Cuban constitution, and were incorporated into the treaty of 1903. The American troops

were withdrawn, and the President of the Republic of Cuba was inaugurated on May 20, 1902.

Was this imperialism? Anti-imperialists declare that the economic life and the political life of the island are dominated, respectively, from New York and from Washington. Professor Moon has declared: "In congratulating themselves upon their magnanimity in carrying out their pledge to emancipate Cuba, and upon the unselfish character of American policy toward Cuba, enthusiastic Americans often ignore the facts and sometimes indulge in a self-esteem that borders on hypocrisy." While admitting that it is not annexation, he declares it to be a "veiled control," and "a more subtle imperialism." Judge John Bassett Moore declared the mission of the United States, in view of the intolerable situation which existed in Cuba, to be "analogous to what is known in private law as the abatement of a nuisance." Subsequent arrangements were made to prevent its repetition. Former Secretary of State Hughes, while admitting our special relation to Cuba, declared that "our action has been solely for the purpose of aiding in maintaining the independence and stability of Cuba and thus not to create but to preclude the necessity of intervention under the treaty by encouraging the Cuban people to eliminate waste and corruption, to reduce public expenses to the normal requirements of government, and to secure the just and efficient administration which will safeguard the desired independence of Cuba and promote the prosperity which, with their abundant natural resources, the Cuban people are entitled to enjoy." Judge Moore and Secretary Hughes have been fully conversant with the facts.

The American government has not been busy scheming how it might profit from its relation with Cuba. It has had definite obligations under the resolution of intervention and under the treaty with Spain to discharge. Moreover, the second intervention in 1906 and the re-establishment of

order is proof of the necessity of the connections we have. It is hardly the wise thing to establish an independent state and then to take no measures to guarantee its perpetuation, if such is its desire. What would the detractors of the policy do? Would they have left Cuba to her fate under Spain? Or have annexed her outright as an evidence of thoroughgoing but honest imperialism devoid of "hypocrisy"? Or would they have left her open to attack and without protection of any kind?

As for our relations with Santo Domingo and Haiti, the former country had been the scene of many revolutions, which had as their object the control of the country and through political control the disposal of the public revenues. The rights of an American corporation, the Santo Domingo Improvement Company, were interfered with, and finally the company was expelled from the country because it refused to conform with the arbitrary and confiscatory policy of the government. John Bassett Moore was sent to report on conditions as American agent, and to make recommendations. He found that the source of revolutions and disorder was the desire for revenue control, and from this followed interference with legitimate business interests. An agreement was reached whereby collections of customs revenues were to be devoted to American claims.

The European states then threatened to intervene in the interests of their creditor nationals, whose claims had been constantly ignored. They demanded a share in the customs collections. President Roosevelt was faced with a serious situation. He could have left the country to its fate, which would have been European occupation. He could have resisted the European powers in their demands, which might have meant war. Or he could assume a measure of control which would perpetuate the independence of the state, satisfy the creditor states, and preserve the Monroe Doctrine. He assumed *de facto* control of customs col-

lections in 1905. These relations were legalized by a treaty of 1907, which provided for the issue of bonds to the amount of the total Dominican debt (twenty millions of dollars) and for the appointment of a receiver of Dominican customs by the President. Such protection as was needed for the discharge of his duties was to be given by this government.

But revolution again broke out, and the terms of the treaty were not observed. In 1916 American forces were landed to restore order, and a military government was established. With the re-establishment of the government and of order, the United States began its preparations to withdraw. An agreement of 1922 set forth the conditions of evacuation, which were, in brief, the holding of elections, the reorganization of the government of the provinces and the communes, and modest assurances of the continuance of order. These conditions having been fulfilled, the military forces have been withdrawn.[1]

Revolutions have also harassed the Republic of Haiti. For a period of thirty years no President ever served out his constitutional term, owing chiefly to assasinations and rebellions. The governments of France, Great Britain, Germany, Italy, and the United States had pressed the unsettled and ignored claims of their nationals. Some of these countries had landed troops to protect their interests. In 1915 a revolution culminated in the murder of the ex-President and the President of the Republic. The little country was without a government. American forces were landed in 1915. A President was peacefully elected, and a treaty negotiated under which the United States agreed to supervise the collection and administration of customs and the training of a native constabulary. The occupation of the United States will continue until there are positive assurances that we can, in the words of Secretary Hughes,

[1] By a treaty of December 1924, the American customs receivership is to be continued until existing loans are discharged.

"leave Haiti with reasonable assurance that the Haitians will be able to maintain an independent government competent to keep order and discharge its international obligations."

Unsubstantiated charges of misrule, cruelty, and exploitations have been made. In all military governments there will be some resistance, and it is the nature of such administration to meet such resistance fully and directly. Local government has been restored; life and property have been made safe; a military oligarchy has been removed; graft in the revenue services has been eliminated; loans on favorable terms have been negotiated; public works have been constructed; debts are being discharged; usurious interest rates have been abandoned; lines of communication have been established; measures of sanitation have been introduced; and agricultural and economic interests have been fostered and developed. The opposite condition which the Americans found there need not be described.

Are these evidences of imperialism? What have Americans done to the country? New York banking interests bought an interest in some Haitian banks. Also, American capitalists invested in some of their public utilities and some of their sugar lands. These terrible interests have spread their tentacles in the form of investments in the resources of the country! Haiti sought capital before this. It was from Europe, and was secured under difficult conditions. Even the financial arrangements and the private investments, when all the facts are considered, are favorable to Haiti, and are, indeed, without the purpose or motive of imperialism. It is quite natural that the investor should want settled conditions and a profit. The interest of the government of the United States is independent of that of its citizens having financial interests there.

It must be admitted that our relations with the Republic of Panama and our treatment of the Republic of Colombia

smack of imperialism. The story of President Roosevelt's connection with the recognition of Panama is well known. He admitted the "taking" of the Canal Zone. He also admitted that the recognition of Panama was a distinct departure from the principles of non-intervention and *de facto* recognition, but argued that this was a justifiable exception, based on our treaty rights, our national interests and safety, and the interests of collective civilization. It had been settled that the canal must be built, and the time for giving attention to impediments was past. Colombia's refusal to ratify the Hay-Herran Treaty he called "contemptuous."

By the treaty of 1903 with Panama, the United States agreed to guarantee and maintain the independence of the Republic of Panama. On her part, Panama relinquished to the United States the control of sanitation and the maintenance of public order within the cities of Colon and Panama. The United States was given the right to employ measures to protect the canal, and no alterations in government, laws, or treaties affecting the rights of the United States could be made without her consent. Panama granted to the United States in perpetuity a zone ten miles wide for purposes of a canal, American control of which was to be virtually sovereign. The canal is now an important highway of commerce which we must protect. It is also a necessary means of defense. Both national safety and economic interests require that we retain full control of it. The building, operation, and even protection of the canal are a benefit to the world. American protection is essential to its larger preservation. Our harsh dealings with Colombia have been softened by a treaty which has in part lifted the odium which attached to that transaction.

In no country has American policy drawn so much fire as in the little Republic of Nicaragua. Much Latin-American, European, and United States opinion has been marshaled against our using the traditional measures of

control which have seemed necessary in the past. A condition of general warfare in Central America was brought to an end in 1907 by the mediation of Presidents Roosevelt and Diaz. A conference was held in Washington, where a number of conventions were drawn up, establishing, among other things, a Central American Court of Justice, and an agreement not to recognize any government coming into power through revolution against the established government so long as the constitutionally chosen representatives had not reorganized the country. In 1909 a revolution broke out, led by General Juan J. Estrada, against the government of President Zelaya. Pressure against the Zelaya government became so great that he resigned in favor of José Madriz. The murder of two American adventurers was the occasion of the pressure. The declared policy of the United States was that of friendliness to the cause of the revolution. It was successful, and Estrada demanded recognition by the United States.

Mr. Dawson was sent to Nicaragua to enter into agreements with the new government. They agreed to adopt a constitution, and to bring about the election of a constitutional president. A loan, to be secured by the customs receipts, and the settlement of liquidated claims were agreed upon. In 1911 the new government was formally recognized. A loan convention was denied ratification by the Senate, but certain financial arrangements were made between the government and the bankers of New York, with the co-operation of the Department of State. Another revolution broke out in 1912, followed by the United States intervention, on the ground that "under the Washington conventions the United States has a moral mandate to exert its influence for the preservation of the general peace of Central America. . . . ." In the elections of 1916, the United States, while observing a color of neutrality, was clearly favorable to General Chamorro, the Conservative

candidate, who was elected. The Bryan-Chamorro treaty was signed in 1914, but was ratified in 1916. It gave the United States an exclusive right to build a canal along the Nicaragua route, together with leases of sites for naval stations and a naval base. For these concessions the United States agreed to pay $3,000,000.

This treaty was protested by Costa Rica, Salvador, and Honduras. The United States Senate, in its resolution of ratification, interpreted the construction as intending no infringement on the rights of these states. Costa Rica and Salvador repaired to the Central American Court of Justice for redress. Costa Rica claimed that Nicaragua must, under treaty arrangements, respect her right of free navigation on the lower waters of the San Juan River, and that Nicaragua must consult Costa Rica before making any grants of land for canal purposes. Salvador objected to the establishment of foreign naval bases on the shores of the Gulf of Fonseca, which also bordered on her territory. The Court took jurisdiction and decided that there had been infringements of rights in both cases. It recognized that the treaty was with an outside party, and that it was incompetent to declare the treaty void. Neither the United States nor Nicaragua took notice of the decision, and the court lost its prestige. It did not add to the moral strength of the United States to be party to a transaction which led to the disruption of an institution of justice which it had had so large a part in establishing. Whatever the ethics of the case may be, the results have not been good.

Upon an invitation from the government of the United States, delegates from the Central American states assembled in Washington in 1922 to revise the Washington conventions. A number of conventions were concluded, the leading one being a general treaty of peace and amity. They arranged for a new Central American international court, extradition, the limitation of armament, permanent commissions, and for a number of co-operative undertak-

ings of mutual benefit to the Central American family of states. It is also provided that no government will be recognized by the other governments which comes into power through a *coup d'état* or a revolution against a recognized government so long as the elected representatives of the people have not constitutionally reorganized the country.

Recent events have put this policy to the test. In 1924 the United States and other governments recognized the coalition government of President Solorzano and Vice-President Sacasa. Emiliano Chamarro, the defeated candidate, after the withdrawal of the American marines, forced the resignation of the president and the retirement of the vice-president from the country, and had himself appointed Designate by the assembly. Recognition was refused his government as set up in violation of the provisions of the Washington conventions. The liberals, led by Solorzano, also started a revolutionary movement. American forces were again landed, and mediation between the parties led to no result. Chamarro turned the office over to Uriza, but recognition was still denied for the same reason. The assembly was called, and Adolfo Diaz was designated President. He was recognized by the United States. Dr. Sacasa, the Vice-President, returned to Nicaragua and set up a government. He claimed the succession on the constitutional ground of being next in line and the claim that the Diaz government was based on a *coup d'état* and therefore illegal. Diaz asserted his régime to be constitutional on the ground that, under the constitution, the assembly may, during the absence of a president and vice-president, designate an executive. Diaz charged that Mexico was supporting the claims of Sacasa through an effort to obtain a Bolshevist foothold in the country. These statements were supported by the American Department of State.

President Coolidge, in a message to Congress, January 10, 1927, set forth the policy of the American govern-

ment. The United States must concern itself with any threat to the stability and constitutional government in Nicaragua which might lead to anarchy and to the jeopardy of American interests, especially when contributed to or brought about by outside influence or by any foreign power. He had, he declared, "conclusive evidence" that large quantities of munitions and arms had been shipped to the Nicaraguan revolutionists; that the carrying boats had been fitted out in Mexican ports; and that these measures had been taken with the knowledge, and in some cases with the encouragement, of Mexican officials. Mexico replied that she had no such interest in Nicaragua as the President had alleged, and pointed out that her recognition of the Sacasa government was in keeping with the Washington conventions of 1923. Both contestants made overtures with a view to settling their difficulties through the inevitable compromise of rival factions.

To the end that the Nicaraguan situation might be effectively and amicably adjusted, President Coolidge sent Henry L. Stimson as special emissary to Nicaragua. The result was the "Stimson agreement," under which the United States undertook, with the consent of the Nicaraguans, to supervise the presidential election and to police the country during the period of the agreement. This was in the interest of a regular, fair, and peaceful election. The American Electoral Commission was headed by Brigadier General Frank R. McCoy, as was the National Elections Board. On November 4, 1928, General José María Moncada, of the Liberal party, was elected constitutional president of Nicaragua, in an election described there officially "as an example of fairness and real liberty."

Perhaps no course of the United States has been so severely criticized as this in Nicaragua. The press of Europe, chronically hostile, pointed to it as an example of American imperialism. The literary opposition of Latin America to all things United States flared into a blaze. In

the United States, the administration was embarrassed from the first in the settlement of this question. Senator Wheeler introduced a resolution in the Senate demanding the withdrawal of the marines. The opposition of Senator Borah brought Secretary Kellogg before the Foreign Relations Committee of the Senate, in an effort to defend his policy. He declared that the Calles government was doing what it could to make Nicaragua the base of a Bolshevist régime against the United States. He cited the aims of certain Communist organizations which sought to alienate Latin-American opinion against the United States. The then Mexican foreign minister, Aaron Saenz, replied that Mexico was not in this plan mentioned by the Secretary of State, and also that the Soviet minister to Mexico had been warned not to affiliate with the radical groups in Mexico. Mexican labor leaders denied that they had been influenced from Moscow. Mr. Borah then led a bitter attack against the Department of State, criticizing the recognition of Diaz, declaring that Sacasa was the constitutional President, and that the landing of marines was a part of an "unconscionable" policy. Additional resolutions were introduced in the Senate and the House of Representatives, seeking to limit the discretion of the President in the use of the armed forces of the country. Memorials from organizations, college professors, and individuals poured in, protesting against intervention, urging arbitration of outstanding difficulties with Mexico, and in one case demanding the withdrawal of national protection from all persons engaging in business in foreign countries.

The Department of State could not remain uninfluenced by these representations. It illustrates in a striking way how organized public opinion can influence foreign policy. It is to be regretted that the views of the less articulate organizations and interests were not stated. Persons and organizations in the business of fighting so-called imperialism and in promoting peace get the larger

share of publicity, and consequently receive a larger consideration than is their due, on account of their organized channels of pressure. It is their business to make war appear probable or to make something appear imperialistic, else their business would suffer. Such pressure, where given attention, should be made responsible, and its source clearly indicated.

The representations of these organizations, and of certain members of Congress, have been based on certain misconceptions. In the first place, at no time did the United States contemplate hostile measures against Nicaragua, or against any faction there. A method of control which has developed through two decades was applied to meet one of a chain of circumstances. Moreover, the United States has not desired to support any faction *per se,* but to throw its support to any régime which would bring about the restoration of order and the resumption of government. The charge that the Washington conventions were violated by the United States is baseless. It twice refused to recognize governments (Chamarro and Uriza) because they were clearly in violation of the Washington conventions. When Diaz was elected by the assembly, the vice-president was out of the country, and there was no government but the one at hand. It was at least an expression of the will of the assembly with the influence of Chamarro removed, although his shadow remained. Recognition and support of the act of the constituted authorities seemed to the American government in keeping with the Washington conventions. It was hardly within the power of the government, or within its right, to keep a situation static until Sacasa could return and take control. The decision of the American government was no judgment against Sacasa. He was removed from the situation so as not at the time to be a factor. It only took account of facts as they were. Where rival constitutional claims are made, it is the right of our government and its responsibility to make a choice, and

time may not admit of their being made in keeping with irresponsible and abstract notions of what some regard as absolute justice. The American intervention in Nicaragua was against a situation, not a government or a faction.

It is of course regarded as imperialism to prevent measures which will endanger our canal rights in Nicaragua. Instability would interfere with them. They are guaranteed by treaty. Should the canal be built, it will be American money and men which do it, and American enterprise which will protect it and maintain it as a free waterway for the use of the world. Such rights any government would protect. The right to protect American lives and property is a fundamental one. No amount of agitation by irresponsible parties for the abandonment of this right can alter the situation. The man whose life and property are affected has a different point of view.

Then, too, the United States has a special position in Central America. European nations look to us for the protection of their interests. It is the "American Balkans." The conflagrations there have been kept in bounds, mainly by the mediation and intervention of the United States. It has been in the main a process of peace and order, and has not involved the world as has the European Balkans question. It is a standing rebuke to European critics of American policy in Latin America. If the objects and purposes of European imperialism had been the same as the so-called "American imperialism," there would have been less war in Europe. Latin-American opposition has arisen. It is chiefly literary and is not altogether responsible. There is a widespread feeling of appreciation for American policy which does not find its place in public print.

We have severe American critics who make it difficult for the country to appear to stand united on any issue of foreign policy. There are three classes of persons so far as foreign policy is concerned. One class gives its enthusi-

astic support to any measure of the government and assumes that the position is correct because it is the position of the government. In a democracy criticism is needed, and foreign policies, in their nature mutable, need criticism. Then there is the class which assumes that the government is wrong in any foreign issue to which it is a party, because it is the government. This is the most articulate class, and the most irresponsible. Finally, a third class gives the government the benefit of the doubt provisionally, and looks into the merits of the issue with an open mind, not hesitating to commend or criticize according to their mature convictions. The majority of the American people are made up of the last group. They neither rush into wars nor follow a policy of inaction when ruin would result.

Doubtless the most fruitful manifestation of American interest in the Latin-American countries was the visit of Herbert Hoover on the U.S.S. "Maryland," immediately after his election to the presidency of the United States. The trip was characteristic of the man. He could not have turned his immediate time to any better purpose or account. He visited Honduras, El Salvador, Nicaragua, Costa Rica, Ecuador, Peru, Chile, Argentina, Uruguay, and Brazil. Lack of time prevented a visit to the Caribbean countries. His addresses covered a diversity of subjects, such as foreign trade, financial conditions, Pan-Americanism, legislation, judicial institutions, education, and diplomacy. He made the visit, according to his declaration, not for recreation or the personal satisfaction of travel, but "to further reinforce the structure of peace and friendship, the unity of ideas, which have remained unbroken since the birth of our republic," and to secure "a widened knowledge of the men and problems of our sister republics."

Will Mr. Hoover's policy in Latin America be imperialistic? Clearly his professions and declarations are against any such course. Let him speak for himself. During his

visit to Ecuador he made the following significant statement:

> The good-will toward all our sister republics which I know lies in the hearts of the people of the United States democracy is more than a form of political organization. It is a human faith. True democracy is not, and cannot be, imperialistic. The brotherhood of this faith is the guaranty of good-will. It is the guaranty of respect which comes only from equals in a common struggle to upbuild human welfare.

Our policy with Latin-American states has not always been right. We have been guilty of abuses, and have suffered from them. But it has not always been wrong, and has been directed toward the perpetuation of the independence and of the integrity of these states. Measures of control have been exercised under conventional relations. But the record of each particular case shows whether it is imperialism or benevolent diplomacy.

CHAPTER XXIII

IMPERIALISM IN THE FAR EAST AND THE PACIFIC

The powers of Europe have followed a deliberate policy of imperialism in the Far East and in the Pacific. In the first place, they have acquired possessions in these regions which have become an integral part of their territories, and which have been in the main tribute-paying colonies. In the second place, they have adopted an imperialistic policy with respect to China. The policies of Great Britain, France, Germany, the Netherlands, and Japan have been plain and bold as to the first point. The United States, through the acquisition of Hawaii, the Philippines, Guam, and Samoa, has not been modest in its pretensions to power and influence in the Pacific.

The interested powers in the Pacific area have come to a definite understanding with respect to their insular possessions in that ocean. Unless all signs fail, possible misunderstanding has been removed, and the danger of war has been averted. This action was taken by the Washington Conference of 1921. As the matter now stands, the Pacific Islands, while examples of imperialism, will make no trouble between the interested powers. Such trouble as exists is between the ruling state and the ruled. This agreement took the form of the celebrated Four-Power Pact between Great Britain, France, Japan, and the United States.

For a period of ten years, these states have agreed upon a form of co-operation with respect to their Pacific possessions. If any Pacific question arises which cannot be settled by diplomacy and which relates to the rights of the parties to these possessions, a conference will be called to consider and adjust the difficulty. If the rights protected by the treaty are threatened by the aggressive action of

any other power, the parties will communicate with each other and endeavor to arrive at an understanding as to the best measures to be taken, jointly or separately, to meet the situation. The Senate in its ratification reserved the point that the treaty implies no commitment to armed force or alliance or obligation to join in any defense. These powers also agreed to the express limitation of fortifications and naval bases in the region of the Pacific for a period of fifteen years. Thus, the Philippines and Guam will be armed no more than they are now, under the treaty, until 1936. This policy of conference and consultation, together with the maintenance of the status quo in military establishments, shows how imperialism as a cause for war may be eliminated. The business of developing self-government is another question which we treat in part elsewhere in this chapter.

The most seriously conflicting interests of the powers in the Far East are to be found in China. The United States, seeking no concessions there, has from the first applied the policy of the open door, in order to secure the same commercial advantages enjoyed by the citizens of Europe. China is today realizing the unfortunate consequences of favoritism toward foreign nations which has been forced on her. Nations from the first began to demand special privileges in the form of foreign customs control, extraterritorial jurisdiction, and trade concessions. This practice forced the United States to seek from China and from European states the treatment of the most favored nation in matters of commerce and in the status of nationals. As time passed, the demands of the powers extended to spheres of interest in the form of virtually perpetual leases. These spheres were said to be for commercial exploitation only, but the rights of sovereignty were asserted in due course, and China was threatened with dismemberment. John Hay, as Secretary of State of the United States, asked the powers to join the

United States in a declaration pledging the open door in all commercial relations with China and disclaiming any intent to dismember the state. The government suggested that "Chinese territorial and administrative entity" be preserved. The states approved, but the process of parceling out China continued.

The aims of the powers at the Washington Conference with respect to China were redefined, and imperialistic tendencies were nipped in the bud. Policies with respect to the future of China took four definite forms. First, certain of the powers, either by treaty with China or by declarations, signified their intention of releasing certain territories under their control to China. Thus Japan by treaty released her rights to the province of Shantung, confirmed to her by the Treaty of Versailles. Balfour, speaking for Great Britain, said that his government would sanction a gradual retirement from Weihaiwei, British leased territory. France made a similar pledge with respect to certain of her holdings. In the second place, the powers, other than China, embodied their future aims in the form of a treaty. Under it they agreed: (1) to respect the sovereignty, the independence, and the territorial and administrative integrity of China; (2) to give China the fullest opportunity to develop and maintain an effective and stable government; (3) to use their influence in establishing and maintaining the principle of equal opportunity in trade for all nations throughout China; and (4) to seek no special privileges which would abridge the rights of citizens or subjects of friendly states. While this treaty did not rectify past abuses, it did point to the future. In the third place, the powers agreed to hold a conference, with a view to the revision of tariff rates, and looking into the question of relinquishing customs control to the Chinese. Fourth and last, a commission on extraterritoriality was to visit China, investigate the court practices and procedure, and make recommendations which would lead to

the abolition of foreign consular jurisdiction. The surrender of Shantung by Japan has taken place. The declarations by the other powers remain unfulfilled, yet the treaty defining future policy has been observed.

The Chinese Customs Conference was to convene at Peking in the fall of 1922, but the failure of France to ratify the Washington agreements delayed the meeting until October 26, 1925. The treaty under which the conference was working authorized the increase of tariffs on ordinary goods from 5 per cent to 7½ per cent, and on luxuries from 5 per cent to 10 per cent. The increased revenues were to be used to reduce the Chinese unsecured debts. It was also the purpose of the conference to promote the abolition of *likin,* the provincial tax levied by the governors on imports in addition to the five-per-cent treaty tax. The Chinese at once sought to go beyond the competence of the conference under the treaty and to get a pledge from the representatives with respect to tariff autonomy. After some discussion, the delegates agreed to declarations which should be incorporated into the treaty which was being negotiated. The powers agreed that they would relinquish customs control on January 1, 1929, when the Chinese tariff law would go into effect. The Chinese on their part agreed to the abolition of *likin* by that date. There was much difference of opinion as to what the tariffs and classifications should be, pending the application of the Chinese tariff law. The Chinese suggested rates which were uniformly high. The powers differed on all these points. But the greatest difficulty was the disorganization in China due to the revolutionary activities. The foreign delegates sought to know with whom they were dealing, what conditions would be asked, and what reliance they could place on their representations. In July 1926, they adjourned the conference after several months of futile negotiations.

The Commission on Extraterritoriality postponed its

work for one year at the request of China. It began its work in January 1926, and the report was signed in September of the same year. Mr. Silas H. Strawn, the American commissioner, was the Chairman of the Commission, and presided over its sessions. Part I of its report deals with the practice of extraterritoriality as it now obtains in China, taking up the defects of the machinery and its injustices, as charged by the Chinese. Part II relates to the laws and the prison and judicial system in China. Many of the laws applied were found to be in the form of decrees, without constitutional foundation. The clauses on the prison and judicial systems were findings of fact. Part III dealt with the administration of justice in China. Here the lack of a controlling central government has impaired administration. Legislation, left to the parliament, has not been passed. Military leaders may, within the region of their power, exercise all functions of government without stint, thus causing the judiciary to lose its special character. The depleted treasury has prevented the financing of improvements and the maintenance of courts. The rival courts set up by contending governments, the judgments and authority of which are not recognized by the central government, complicate the situation. Part IV deals with recommendations which, when adopted or complied with, would warrant the powers in relinquishing their extraterritorial rights. These recommendations were, in general: (1) that the Chinese judiciary should be protected from the encroachments of other branches of government; (2) that the Chinese should adopt the suggested program for the improvement of her existing legal, judicial, and prison systems; (3) that, pending the total abolition of extraterritoriality, progressive stages of abolition by territory or jurisdiction might be followed; (4) that the powers should modify their existing systems and practices along certain suggested lines to improve the administration of justice and to remove certain injustices.

The failure to obtain these concessions has made the present nationalist movement in China more formidable, but has not taught them the lesson of unity in international action. The allied powers were prepared to proceed even faster than the Washington arrangements had contemplated. The arguments of the Chinese that had been made at Versailles and at Washington, that these conditions impaired her sovereignty, hurt her dignity, impoverished the country, and discouraged unity and stability, had become an old song to the powers, and they were at last prepared to see what China proposed to do in a positive way toward assuring that adequate administration of justice would be established and that provincial tariffs would not be levied. They will not relinquish their rights until certain guaranties are given. But an anti-foreign movement has set in from all sides which blames the foreigners and exonerates the Chinese. This is hardly a considered judgment as to the location of responsibility. They blame the foreigners not only for failures to relinquish judicial and customs control. Each faction seeking recognition blames each government for not so preferring it. Each faction blames the powers for not being able to deal with irresponsible plenipotentiaries. Moreover, each group blames the powers for taking positive steps to protect the lives and property of their citizens during an unreasonable anti-foreign movement when the factions are not only fighting each other but also persecuting the foreign residents. And the charge of foreign imperialism is made on every hand.

The policies of the powers have been fully set forth in recent declarations. Sir Austen Chamberlain on January 29, 1927, declared that "we are . . . . ready to meet China halfway, and to relinquish our special rights just in the same proportion that the Chinese government assures our nationals of the enjoyment of the ordinary rights of foreigners in their country. . . . . All talk of British imperialism in this connection is nonsense. In the Far East, at any

rate, we are a nation of shopkeepers, and we want to keep our shops open and stay on good terms with our customers." His government was ready to relinquish its customs and judicial control and to grant a quasi-independent status in the concession areas when it could find a responsible government with which to deal. There could be no immediate treaty because of the lack of a recognized government. A recognition of the Canton government at this time would be a recognition of a division of China. The Chinese must themselves determine their form of government. Until this is done, little progress in the way of negotiations can be made.

On January 17, 1927, Foreign Minister Shidehara explained the Japanese point of view with respect to China. After a searching analysis of the situation, he summarized Japan's policy with China as follows:

> First, respect the sovereignty and territorial integrity of China and scrupulously avoid all interference in her domestic strife.
>
> Second, promote the solidarity and economic rapprochement between the two nations.
>
> Third, entertain sympathetically and helpfully the just aspirations of the Chinese people and co-operate in efforts of realization of such aspirations.
>
> Fourth, maintain an attitude of patience and toleration in the present situation in China and at the same time protect Japan's legitimate and essential rights and interests by all reasonable means at the disposal of the government.

The policy of the United States was set forth by Secretary of State Kellogg in a statement issued January 26, 1927. He sketched briefly the policy of the United States with respect to China following the Washington Conference, and pointed out how the United States had urged the customs agreements and the extraterritorial investigation far in advance of the legal arrangements. The American representatives had approached both of these questions in a liberal spirit favorable to the Chinese. The government was still ready to proceed with its negotiations on both

questions when China appeared ready to do so with some opportunity of concluding responsible and reliable arrangements. But with whom should the government negotiate? The old treaties could not be merely abrogated by the President; they should be superseded by new treaties "negotiated with somebody representing China and subsequently ratified by the Senate of the United States." During the revolutionary movement, the United States followed a policy of neutrality. If the Chinese authorities were unable to protect American life and property, it was the fundamental duty of the United States to do so, and this the people of China and their leaders should have recognized. He answered the charge of imperialism as follows:

> This government wishes to deal with China in a most liberal spirit. It holds no concessions in China and has never manifested any imperialistic attitude toward that country. It desires, however, that its citizens be given equal opportunity with the citizens of the other powers to reside in China and to pursue their legitimate occupations without special privileges, monopolies, or spheres of interest or influence.

As an evidence of her intention to support and aid Chinese aspirations, the United States signed a treaty on July 25, 1928, with the Nationalist Government, recognizing the principle of complete national tariff autonomy for China, beginning January 1, 1929.[1] The United States has thus taken the lead in extending recognition to the new Nationalist Government, and her action will undoubtedly force other nations to accord similar recognition.

The intense national urge in China is in large measure responsible for the failure of favorable international arrangements. The conflicting factions, programs, and leaders make any unified action impossible. It is something which the Chinese must fight through until a settlement is made. The social, economic, and political revolution of the

[1] Dr. C. C. Wu, who negotiated the customs treaty between China and the United States, has been named Chinese Minister to the United States.

country must be expected to create disturbed conditions. The most advanced party is the Kuomintang, or the National People's Party, presided over by Sun Yat Sen during his lifetime. It stands for the nationalism, the sovereignty, and the livelihood of the people. These principles mean, respectively, independence, democracy, and economic freedom. In order to illustrate the trend of thought in China, it is well to examine the principles of this, the most regularly organized party in China, as contained in its manifesto of January 21, 1924. Its leading points of foreign policy are: (*a*) the abolition of all treaties not based on the equality of both contracting parties; (*b*) the recognition by China as most favored nations of those which are willing to abrogate such treaties; (*c*) the reconsideration of all other treaties which infringe on China's national interests; (*d*) the refunding and guaranteeing of China's external debts; (*e*) the repudiation of all obligations negotiated by irresponsible governments; and (*f*) a national convention to fund these debts and so allow China to escape her semi-dependent status. A glimpse into their domestic policies reveals the following principles: (1) a middle course between centralization and decentralization; (2) autonomy in the provinces for constitution-making and electing governors; (3) the *Hsien* (county) as the unit of local government; (4) abolition of property qualifications and the establishment of universal suffrage; (5) freedom of assembly, of speech, of the press, and of worship; (6) a change from mercenary to conscriptive military service; (7) recovery of the idle and vicious into social life; (8) economic laws regulating rent and abolishing *likin;* (9) betterment of rural life; (10) labor legislation; (11) sex equality; (12) taking of the census; (13) universal education; (14) enactment of laws regulating the use of land; (15) regulation of monopolies.

All nations and peoples seem sympathetic with the

aims of the Chinese people, and with their efforts to adjust their present difficulties. Instead of imperialistic policies, nations have taken a forward step since the Washington Conference away from imperialism. Indeed, they have been ready to proceed more rapidly than China is prepared to go. Reasonable safeguards for the future are not imperialistic manifestations. With the attitude of the powers an extremely favorable and liberal one, and with the points of friction removed from the Pacific area, the charge of imperialism from that important quarter can hardly be sustained.

CHAPTER XXIV

THE MANDATE SYSTEM

Lack of space forbids an extensive examination into the origin, establishment, and administration of the mandate system of the League of Nations. It forms a distinct phase of international effort which is attracting attention all over the world, especially in America. It is pertinent to examine here the general conditions which regulate the system, its philosophy and meaning, and to provide a modest appraisal of its results. Stated briefly, the system is an attempt to abolish title by conquest as a claim for territory, and to remove land hunger as a cause for war. It has, therefore, both a legal and a spiritual aspect. It would take us too far afield to discuss the motives either of the Allied powers or of the Central powers as regards the acquisition of territory. That is done abundantly by those who see much evil in the system. It is better to examine what has been done and to judge the progress in the light of present achievement and the probable future. The aspirations of those seeking a moral and legal change or modification of the law and spirit of conquest were expressed by President Wilson in the fifth of his celebrated Fourteen Points:

> V. A free, open-minded, and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principle that in determining all such questions of sovereignty the interests of the populations concerned must have equal weight with the equitable claims of the government whose title is to be determined.

It was expected that a policy so much at variance with the practices of the past would meet opposition at the Peace Conference. Compromises in the nature of the case had to be made. Opposition to the principle as an established part of future international arrangements was defeated. Compromises between President Wilson, General

Smuts, and Lord Robert Cecil had to be made. Adaptation of the principle to the existing situations also had to be made. The awards of territories to the mandatories were made in deference to the previously arranged plans of the allied states. These compromises are often indicated as evidences of the abandonment of the principle. But a counsel of perfection cannot be realized over night. The award of the mandated territories is, after all, substantially in keeping with the general requisites of mandatory capacity, such as proximity, interest, strength of government, and general fitness to supervise. Past experience had proved the folly of international administration of territories and peoples. The national administration of backward peoples and territories had proved a distinct success, from the standpoint of efficiency and of results. An irresponsible international control would not secure for the affected populations the benefits of the new order of things. A happy compromise between the constitutional and international features was arranged through the national administration of these areas by mandatory powers under an international responsibility.

The principles of the mandate system are set forth in Article 22 of the Covenant of the League of Nations. It is the charter of freedom of oppressed peoples. Colonies and territories released from their former allegiances by the late war, and as yet unable to stand alone, have had applied to them "the principle that the well-being and the development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant." The tutelage of such peoples is to be entrusted to advanced nations willing to accept it, on the basis of their resources, their experience, or their geographical position. The supervising nations act "as mandatories on behalf of the League." The mandates are divided into convenient and practicable categories, according to the state of the development of the

people, the geographical situation of the territory, its economic conditions, or other similar circumstances.

Advanced communities needing only advice and assistance until they can stand alone must be consulted as to the choice of the mandatory. These are described as Class A mandates, consisting of Syria, Mesopotamia, and Palestine, which have been assigned, respectively, to France, Great Britain, and Great Britain.

Class B mandates are under the administrative responsibility of the mandatory, but under conditions which will guarantee freedom of conscience or religion (subject only to the maintenance of public order and morals), the prevention of such abuses as the slave trade, the traffic in arms, and the liquor traffic, and the prevention of military measures except for police purposes and for defense of territory. Equal opportunities of trade and commerce are to be secured to the other members of the League. Togo and the Cameroons have been assigned in separate parts of each to France and Great Britain. Tanganyika has been assigned to Great Britain, and Ruanda-Urundi to Belgium.

Class C mandates are those of Africa and the Pacific Islands, which, "owing to the sparseness of their population, their small size or their remoteness from the centers of civilization, or their geographical contiguity to the territory of the mandatory, and other circumstances, can be best administered under the laws of the mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population." Under this provision, awards have been made as follows: Southwest Africa to the Union of South Africa; Samoa (part) to New Zealand; Nauru Island to the British Empire; former German Pacific islands south of the Equator to Australia; and those north of the Equator to Japan.

Measures of control were instituted as a protection to the mandated peoples, and as a guaranty for the League of Nations, as well as a fixing of responsibility for the

mandatory. The mandatory must render an annual report to the Council in reference to the territory committed to its charge. The members of the League or the Council must define the degree of authority, control, or administration of the mandatory in each case. A permanent commission was constituted "to receive and examine the annual reports of the mandatories and to advise the Council on all matters relating to the observance of the mandates."

In pursuance of these provisions, there has been established a mandates section of the Secretariat of the League of Nations, which is the permanent agent or bureau for the Mandates Commission, a body which sits in regular or special session, but not in continuous session. The preparation of the report of the Mandates Commission for the Council, the receiving of reports from the mandatories, and the receiving and filing of petitions must be done by a technical, continuous body, under the direction of the Mandates Commission, and yet an integral part of the League of Nations organization and machinery. The relations of the mandatory and the mandate are expressly defined by the draft mandate under which the award is made. The annual reports are submitted to the Mandates Commission, which in turn presents them to the Council in the form of a general report. The Commission, at its own sessions, studies the annual reports on the administration of the mandated territories, pending petitions, and such general questions as may be before it. Its report to the Council is made under the headings of the different classes of mandates. General observations are first in order, and then, under special observations, the Commission treats of such questions as land tenure, labor, education, public finance, public health, and administrative organization. The Commission, in the consideration of petitions, first examines them and the observations of the mandatory powers concerning them. Some member of the Commission prepares

a report on each petition. After discussion and amendment, the reports are adopted by the Commission, and are appended to the general report to the Council. The Council may receive these reports, may approve them, and may take such action as the situation requires with respect to advice to the mandatory, criticism of its administration, or approval of it. Petitions are acted upon chiefly in the light of the findings of the Commission.[1]

The principle of mandates is clearly an advanced step toward a desirable goal. Here, as in other improvements of a serious kind, progress must be by gradual stages. The system can be improved as practice shows the desirability of change, as the mandatories grow in feeling and regard for their charges, and as the affected people increase in capacity to rule. It is urged that the system should be extended to all regions where native peoples are under foreign rule. This may come in time, and should, for the member states of the League of Nations, if the system works well over a given number of years. The report of the mandatory is assailed as a one-sided affair, prepared by the officials of the governing state, with a view to making their administration appear in as favorable a light as possible. But it is subject to review and criticism. Petitions of aggrieved parties are said to be passed over for-

[1] The Permanent Mandates Commission has drawn up a questionnaire which it hopes will facilitate the preparation of the annual reports of the mandatory powers with regard to their administration of B and C mandated territories. The document asks, in the form of questions, the principal points upon which the Commission desires that the information should be given in the annual reports. The questions are grouped under the following headings: status of the territory; status of native inhabitants of the territory; international relations; general administration; public finance; direct taxes; indirect taxes; trade statistics; judicial organization; police; defense of the territory; arms and ammunition; moral, social, and material condition of the natives; conditions and regulation of labor; liberty of conscience and worship; education; alcohol, spirits, and drugs; public health; land tenure; forests; mines; and population. There is hardly any conceivable necessary information which cannot be comprehended under these headings. The mere fact that reports on these points must be made to another authority by the administering mandatory is evidence of a substantial change for the better.

mally. While the tendency to protect and sustain the mandatory does prevail, all the evidence is sifted by the Mandates Commission and the petitioner is often found to have no case.

Professor Harold J. Laski makes two interesting suggestions in his book entitled *A Grammar of Politics*. First, he would place in each mandated territory of the League a representative who will act as League ambassador "on the spot." He should not be a national of the mandatory power. He should watch its work, and make independent reports to the League. The regulations of the mandatory should be subject to his approval, to be passed on finally by the Mandates Commission. Being on the ground, he could preserve evidence which might be destroyed by the interested mandatory. He also proposes that the Mandates Commission of the League of Nations make positive recommendations with respect to the personnel of its administrators. It should insist that inefficient and cruel men be dismissed from the service; that members of the service speak the language of the country, have some knowledge of the native customs, and have had some contact with native life. Where the object of the administration is not the benefit of the mandatory but the good of the native, nothing should be sacrificed to prevent the achievement of the end.

It is often suggested that in case of a war a mandatory might levy on the natives under its control for military service and that an enemy state would regard the mandated territory assigned to a mandatory as hostile territory subject to occupation. This raises a very serious question. The use of the natives is limited to police purposes and to the needs of actual defense. They should form no part of the armed forces of any power. Then, title to these territories, if anywhere, is in the League of Nations. A mandatory should not have to bear alone a conflict which grows out of its faithful trusteeship to the League of Nations. It

should be regarded in time of war as territory permanently neutralized, and therefore immune from occupation or seizure. Nor should the mandatory use it in any way to increase its own military resources. This serious question will be solved by the success of the system, the decline of imperialism, the growth of the League of Nations in influence, the limitation of armaments, and finally the outlawry of war. Its greatest contribution lies possibly in having deflected the grounds of war from that of territory and colonies to other causes. Great powers which anticipate the internationalization of the colonies of the defeated state stand to lose if they are defeated, and to gain nothing by conquest if they win the war. More than anything else, it has taken away the fruits of victory.

CHAPTER XXV

THE FUTURE OF IMPERIALISM

In this discussion I have thought it necessary to deal with the issues of the present era rather than with the settlements of the past. The partition of Africa among the powers and other examples of pure imperialism have not been discussed. Colonization has been a settled policy with many states. I have dealt with situations which indicate a change in the policies of the past. Nor could anything be gained by looking into the motives or the extent of the policy. Much less would it profit us to examine into the ethics and justification of the extension of this control. It has taken place. What of today and of the future?

It has been disclosed by the foregoing discussion that imperialism in itself is not a sin, nor is it an outstanding virtue. Like most political forces in the world, it is a situation resulting from certain definite causes with which we must deal. We have advanced steadily in our ethics as to how imperialism should be exercised and how control over backward peoples should be administered. The imperialism which exploits the native, which sells or uses him as a slave, which inherits the land and seizes the resources which belong to him by justice, which forces him into unwelcome labor or maintains unfavorable conditions of work and insufficient pay, which discriminates against him, which overtaxes him, and which uses him as a pawn in the imperialistic game, is condemned today before the conscience of the peoples and the nations. The imperialism which maintains order, which seeks the good of a neighbor, which betters his economic condition, which reserves to him the benefit of the land and resources of his country, which educates him and cares for his social well-being, is a type of so-called imperialism which we can accept until the affected peoples are either ready to stand alone or until

they can be transferred to the authority of the League of Nations. It is a question of fact and of degree.

With these facts in mind, I am led to the following observations:

(*a*) Imperialism, while abused, has brought a degree of order to an otherwise orderless part of the world. The dismemberment of the present empires would open the door, first, to unregulated exploitation and to the adventuring of other nations and peoples. They would be regarded as *res nullius,* abandoned property, and therefore subject to occupation and exploitation. Then it would open the door to wars between races, faiths, and national groups which are clearly restricted now because of control from above or from without. The present measures of control cannot be abandoned until some substitute or solution is provided.

(*b*) Imperialism, while an important question today, is not the dominant question of the age. Europe, for example, has been much more concerned with questions of security, disarmament, stable currencies, balanced budgets, economic correctives, and arbitration than with this question.

(*c*) The age of territorial discovery and of occupation is past, and hence the ease with which a new country is reduced to possession is past. That the pre-emption of territory makes for competition and for war was true in part a decade ago but is hardly in keeping with the prevailing policies of today.

(*d*) The British Empire, the greatest imperialistic organization in the world, has undergone radical changes, in all parts of its organism, in the direction of more self-rule for the governed and a certain loss of authority or control on the part of the dominant partner.

(*e*) Self-government in the Philippines reached a definite peak during the Wilson administration. Efforts to revive American control have met with a resistance so

formidable that the authorities at Washington took serious account of it. The agent of the President, while reporting against immediate independence, pointed out that the administration must get along with the natives, and that a less militaristic establishment must be maintained at the seat of government. It raises again the question as to how and when the United States will keep its pledge to the object of its solicitude.

(*f*) The policy of the United States in Latin America, while not pure imperialism, receives enough criticism at home and abroad to require abundant caution on the part of the Department of State and the President.

(*g*) The territorial question in the Pacific is settled by the Four-Power Pact. The imperialistic policy of the powers in China received a definite setback at the Washington Conference. These powers have in fact been willing to relinquish special and unequal conditions in their treaties in advance of China's ability to negotiate definitively with respect to them.

(*h*) The mandate system under the League of Nations has introduced the principle of internationalizing territory which might otherwise be claimed as the reward of victory. The law and the spirit of conquest have been turned backward by this positive arrangement of the interested powers.

(*i*) The release of many nationalities has been due to the break-up of empires, and has meant an expression of nationalism on the part of small states, which is the antithesis of imperialistic control.

(*j*) Minorities, denationalized by the application of the principle of self-determination, enjoy the special protection of the League of Nations, under positive guaranties.

(*k*) Wide differences of opinion over the justice and the necessity of imperialism as a policy serve as a healthy check against its indefinite extension and against unreasonable measures of control in its administration.

(*l*) Slowly but surely the good of the native is being

sought, both in the mandated territories and in the colonies under direct national administration and control. The nation seeks the good opinion of the world in the discharge of its task.

(*m*) Unrest and agitation on the part of the native peoples lead to a policy of caution, and to a reasonable compliance with their demands. Countries desire nothing less than trouble in their colonies. If accommodation is possible, it will be tried.

(*n*) The governing country wants the good opinion and the loyalty of its colonies in time of peace and war. The acid test, even though a severe one, is: Will the colony fight for the parent state? The support of the British Empire during the war by its members has made the spiritual tie stronger. There must be some good in a union which commands such voluntary loyalty.

These forces neutralize an unreasonable and an unlimited imperialism. If they continue, harm will be prevented; and after the system has made its contribution, imperialism will disappear from the world.

CHAPTER XXVI

MILITARISM

No subject commands more interest today than that of the prevention of war. The best and the worst minds of the generation are giving their attention to it. There is a sincere desire to rescue society from its former condition of world anarchy and to escape the enslavement of war. But there is also active a selfish, a pecuniary, a professional, or a sentimental interest. The minister, the peace crusader, the college professor, the statesman, the business man, the soldier, the pacifist, the worker have all come to the front as persons speaking with authority on this question. There is, withal, a confusion of ideas, a crossing of purposes, and a lack of understanding which bewilders the average citizen who seeks a way out but does not know whom to follow. For is not the competition of the peace interests like unto the feeling of adversaries contemplating a war? Not all lack of reason in this movement may be laid at the door of the soldier. His solicitude for his calling is open and understood. He often has feelings which he cannot express about the war and the peace movements. There is nothing more unfortunate than the rivalry between the professional representatives of two peace organizations, standing for different interests, points of view, and methods, and therefore really competitors in the business of working for peace! There is needed a definition of ideas and of policies, a clarification of issues, and a careful employment of the thinking process.

It is essential to disarm the minds of peoples and of nations before we disarm as to arsenals and fleets. We are faced with those who regard war as a spiritual undertaking, as a tonic for the human race. Some believe that engaging in war brings to the fore the spiritual elements of a people. The merger of their interests in a common cause,

it is argued, makes for co-operation, community service and welfare, and the elimination of personal and class selfishness. Softness, luxurious habits, and an easy life yield to the more important considerations of manliness, physical vigor, and sturdiness of character, which military service in war time is deemed to develop. Even so prominent a pacifist as Josephus Daniels represented the war as bringing back to the youth of America the strength of the fathers. The feeling was abroad in the land, he said on one occasion, that the American youth, in the enjoyment of modern advantages, had lost the moral fiber of his forebears, but that his response to the call of country was conclusive evidence of his soundness. It is also insisted that the cleansing fires of conflict are good for a nation, meaning a renewed loyalty, a common allegiance, and a common goal.

The argument is so well understood that we need not follow it farther. That a rededication to personal and national ideas and habits contributes to sturdiness of character must be admitted. It is unfortunate, however, that a war should be necessary to bring out in a youth the qualities of leadership, courage, honor, and chivalry which he can secure with equal effect in organized athletic competition in high school and college, in his Boy Scout organization, or on the village baseball grounds. It is also unfortunate that a nation should find it necessary to strengthen the allegiance of its citizens and to develop and quicken their civic spirit through a common enemy, which also means a common hatred. War may have these results, but they can be secured at less social loss. War's justification must rest on other foundations; otherwise the game isn't worth the candle.

A certain group is dominated by the thought that war has always existed, therefore it must always exist. The theory of the norm is ever arising to turn backward the clock of progress. Patrick Henry was probably right when

he said that we can only judge the future by the past. But I doubt if his statement has been properly understood, a statement which he in fact applied to a particular situation. We must profit not only by the good of the past but by its mistakes. Henry was a firebrand in the most daring break with the past of his generation, and perhaps of his century. We are too prone to direct the course of policy and government from the graveyard. Thomas Jefferson was authority for the statement that each generation should refuse to be bound, against its will, by the decisions, the settlements, and the practices of the preceding ones. A recent condition of war should be the least thing to discourage those who now seek a sustained condition of peace. Bearing the burdens of the past conflict, mankind now seeks to avoid the mistakes of the past which created those burdens. Many issues which have led to wars have been worthy ones. The causes have been right and just, but the method of settlement has been wrong. In this admission lie all the law and the prophets, and the hope of the future.

Civilization has prospered as it has broken the shackles of the past and has dared to enter upon new and better courses of action. We have not reached our present stage of life by remaining slaves, by living in a state of tribal anarchy, or by continuing under the autocratic sway of an emperor or king. Religious and civil liberty, equality, rights, education, order, and democracy, the things which we have found to be worth while, have come as distinct breaks with past conditions. The first step in progress is dissatisfaction with present achievement.

The greatest achievement of our civilization is the relative order which has come from the development of the state through the reasonable restraint of the individual in the interest of the group life. Man still has his animal desires and passions. Indeed, it seems impossible that he should escape from them altogether. But he has done so sufficiently to establish the home and marriage, the church,

the school, the state, and a social sense. To the extent of this restraint he has established civilization. The escape from individual anarchy to a condition of social order has kept mankind from being an enemy to himself and to his neighbor. To escape from a condition of international anarchy up to an ordered world is merely common sense. We must recognize this as the supreme failure of the past, and must try to rectify it.

There are those who claim that war must be waged for the sake of peace. In no other way, it is claimed, can mankind be certain that his liberties shall continue, and that he shall have a definite assurance of tranquillity. Like all contradictions in terms, the argument falls of its own weight. We know that the usual condition of things in the ancient world was war. It is only in the modern world that peace has become the ordinary condition and war the unusual relation of nations. In a sense it is true that war has been waged for the sake of peace. It must be admitted that war has sometimes been the only way to resist the unreasonable pretensions of states or combinations of states. But any means which is wrong in itself must affect in part the end or the cause, and all settlements must partake of the injustice of the means through which they are reached.

A nation, entering a conflict, righteously indignant with the outrages of another nation, seldom emerges from the conflict with that emotion as first experienced. An invasion of one's rights by his neighbor does not give him the privilege of seeking personal redress through his own efforts. The courts of the country are open to establish the fact and extent of injury, and to determine the reparation due for the breach. If direct action is taken, it becomes an offense against a state, which will bring into court the one who takes the law into his own hands. The peace has been kept, in the main, not by wars, but by commerce, by religion, by diplomacy, and by persons who seek to remove and to avoid international friction. War is now always the

last resort, after all other methods for settlement have failed. But note the distinction! All other methods of settlement adjust the difficulty and keep the peace. War may settle the point at issue; but it does not keep, it rather destroys, the peace. Indeed, it may not settle the difficulty. It may merely store up antagonism for future conflict. Like breeds like, and war breeds war.

To prevent this condition, war must be made illegal, not only as a means to inflict an injury, but also as a means to repair it. To do this, the determination of causes and the fixing and enforcement of penalties cannot be left for all time in the hands of the contending parties. It is difficult to understand that war must, as a general principle, be waged for the sake of peace. Some people argued that prisons are established for the good of the prisoners. We know that the main motive is to protect society. Slavery as an institution was regarded as good for the slaves. Also, poverty is defended as a good thing for the poor, whereas we know that much of the harm in the world comes from a lack of the good things of life. Not only does war not increase the opportunity for peace, but it affects adversely the interests of neutrals, third and often innocent parties in the undertaking, until they, too, join in the conflict.

The military mind is also encouraged by those who stand to profit by war. The professional military classes stand at the head of the list. A military atmosphere promotes a war atmosphere. The business of the soldier is to win a war. To make his profession worth while, he must have some wars to win. It is natural that his influence should be on the side of continuing the system which makes his profession necessary. He also glorifies his calling. Instead of having the modesty of the policeman who patrols his beat, realizing that his job is due to mankind's social deficiencies and need of restraint, the professional soldier sees in his calling an exalted one. He makes the mistake of distinguishing between the worthiness of the cause for

which he may be called upon to fight and the occupation which thrives on all causes of international difference, just and unjust. Men who would subordinate statecraft to militarism stand to profit by a certain national point of view as to war. Certain business and commercial interests also stand to gain by war, and, when one is imminent, throw the weight of their influence in the direction of possible conflict. The professional patriot whose allegiance does not go beyond a laudation of the military exploits of his country, profits from the war mind in that his point of view is encouraged.

The war mind is also encouraged by men who establish a "war" or "power" theory of the state. That the state is power, and that war is the legitimate means for its exercise, has led and will lead to conflict. Machiavelli, in the *Principe* and the *Discorsi,* has established such a theory. It may be, as Macaulay suggests, that Machiavelli envisaged this as the only means of excluding foreign influence from the Italian states. But their preservation became a passion with him. Any means would justify that end. Such a philosophy makes the means become the end. His distinction between public and private morality, his separation of politics from ethics, the identification of might with right, and the use of force, even fraud, to attain the aims of the ruler, set loose a chain of political thinking and writing that has wrought immense evil in the world. The issue goes to the one not whose cause is just but whose battalions are the stronger. Heinrich von Treitschke also justified the power and force of the state through the necessity of its preservation. The state has a legal obligation to protect its citizens in return for their allegiance and obedience, and it can only discharge this duty when it survives. The first duty of the state, therefore, is its self-protection. Any limitation which a state places on its freedom of action must be voluntary. It is better to die, sword in hand, than to surrender. To yield is immoral.

Next to the theorist who preaches the doctrine is the statesman who practices it. Bismarck disparaged the efficacy of German representative institutions by declaring: "The great questions of our time are not to be decided through speeches and majorities, but with blood and iron." The doctrine of power and militarism of William II of Germany is well known. The aims of Mussolini, the recent apostle of the doctrine of state power, have been examined under another heading. The connection between the New Italy and military power is illustrated in his speech before the Chamber of Deputies on November 16, 1922:

> The State is strong and will prove its power. . . . . The State does not mean to abdicate for anyone, and whoever opposes it must be punished. This explicit statement is a warning to all citizens, and I know will be particularly pleasing to the Fascisti, who have fought and won in order to have a state which would make itself felt in every direction with inexhaustible energy. It must not be forgotten that, besides the minority that represent actual militant politics, there are forty millions of excellent Italians at work, who by their splendid birth-rate perpetuate our race, and who ask, and have the right to obtain, freedom from the chronic state of disorder which is the sure prelude to general ruin. Since sermons, evidently, are not enough, the State will put in order the army it has at its disposal by a process of selection and improvement. The Fascista State will form a perfectly organized and united police force, of great mobility and with a high moral standard; while the army and navy—glorious and dear to every Italian heart—withdrawn from the vicissitudes of Parliamentary politics, reorganized and strengthened, will represent the last reserve of the nation both at home and abroad.

The war or military mind has its strongest grip when it dominates the thinking of the people of a nation. It becomes most difficult to tear such a hold loose. "As a man thinketh in his heart, so is he." This might be said to describe peoples and nations as well as individuals. Where the grip is secure, only a defeat has been able to release it. Herein lies the injustice. A nation must be restrained because, first, it thinks war, and then acts war. The means of redress and the punitive element are still war.

CHAPTER XXVII

THE CASE AGAINST WAR

We are now ready to formulate a definite case against war as an institution. We have at no time said that war could be abolished forthwith or that its settlements have never been just. We have tried to point out the flaws in the argument that it is essential, that it will ever be, and that it has positive moral advantages. War is a colossal loss.

In the first place, war is a social loss. The deaths of combatants and non-combatants check the natural increase in population. But for the loss of man-power following the Civil War, the immigration problem in this country, which has culminated in a policy of exclusion, would have been settled long before it was. The maimed and the disabled return to the home country and become a heavy social charge against the state. Their dependents increase this charge. The loss of the best blood of the state, or the failure to reproduce that best blood, has never been in keeping with a sound social policy. Able-bodied men return from war and find it difficult to find their places again in society. Those who are exposed to the dangers of combatant service experience horrors which remain with them through life, and often effect the destruction of the best in life. The non-combatants also are swept into the maelstrom of this social bankruptcy, and many lose their lives through the extension of the warfare to the civilian population. The most innocent are forced thus to suffer. Pillage and the use of chemicals bring women and children, once immune from the ravages of this dread social disease, within its grasp. Social problems are increased, and social suffering results which cannot be eradicated by any temporary prosperity.

War is also an economic loss. There can be no doubt that certain interests prosper, but most of society loses.

Even in the case of those who profit, the advantage may turn out to be temporary. War can only mean dislocation of the economic and business relationships which have been built up during peace times through steady, normal growth. There is a great stimulation of artificial wealth for temporary purposes. The productive powers of the nation are released from their usual functions and are turned to military purposes. In it all, there is waste and destruction. The war prosperity brings in its train the inevitable profiteer, high taxes, and high prices. The currency becomes inflated. Wages may increase, but they buy less food and goods. War debts are incurred which future generations must pay. The state becomes a great industrial machine for the production of things which destroy rather than create. The reserves of capital are used up. The history of peace has been that of restoring the economic losses of war. Inflated currencies, unbalanced budgets, deranged business relations, debts, and indemnities follow which are difficult to adjust. It becomes almost impossible to collect either a debt or an indemnity. Bad feeling is engendered between former allies in their future financial relations.

War is a political loss. The normal business of the state is to promote the good and the welfare of its members. In war it must forget this and promote its own interests, fancied or real, at the expense of theirs. It often involves the restriction of political and civil liberty, the suspension of basic rights, and the adoption of a policy of intolerance. Differences of opinion as to the acts of government in prosecuting the war may be interpreted as interfering with the war, and therefore a treasonable act. The positive acts of the state for the social and economic good must be put aside, while every state activity is directed to the purpose of war. The administration of justice, the preservation of liberty, the guaranty of equality, the protection of life and property, and other conventional but fundamental duties of the state go by the board. The

derangement of the state in its international relations must follow. Treaties and diplomatic representation with the enemy states cease. A former orderly relationship becomes one founded on force. Relations with neutrals become strained. The belligerent seeks to have the neutral states perform the *n*th degree of neutral obligation, while it does not hesitate to violate neutral rights with impunity, if it so desires. A war, inevitably based on force, will lead to a peace based on force and conquest.

War is also an intellectual loss. It means a colossal waste of thought. Universities and colleges are turned from their usual business of education and research to train men for the conflict. The social thinking of the people not only is deranged but may indeed be destroyed. International intellectual co-operation, the most objective and the least political thing in the world, is checkmated, only to become the slave of some cause or point of view. Thought is repressed. The teacher, under ordinary conditions giving himself to an understanding of neighboring peoples, must see his country's enemies in the worst possible light. Propaganda is let loose in the name of truth, and one is forced to bide his time until peace returns before he can view things in their proper perspective. Prejudice, suspicion, and distrust never furnish a proper foundation for the discovery of truth. The scientists, ordinarily engaged in discoveries for the benefit of mankind, direct their energies toward the discovery of great engines of destruction. This evinces the need of a scientific disarmament as well as a mental disarmament. After a war is over, it takes a generation for sanity to displace illusions in the thinking of a nation.

War is, finally, a great moral and spiritual loss. Settlements which have been made by the sword have, if history teaches a lesson, been ended by the sword. Supervised and organized hatred displaces cordial co-operation and good will. From this hate, one of the evils of mankind, results

a warping and coloring of moral judgments of neighbors. Ethics is swept aside for expediency. Secret plans and the use of force place a premium on fraud and deceit. The great spiritual elements which are the pride of our civilization have come, not from war, but from peace; not from subjugation, but from persuasion. Even just cause for war does not remove the spiritual loss which is entailed. Someone must be good enough to forgive another's evil, love enough to overcome another's hate, if the vicious cycle of conflict is to be brought to an end. Each belligerent invokes the help of God and claims His divine appointment. The importance of international moral understanding and judgments is stated by President Coolidge as follows:

> We need an international mind more stably balanced against sudden shocks. . . . . Before we have the fact, we must have the philosophy of world peace. . . . . World peace, a world affair, stands or falls by world opinion. If we are to have world peace, in other words, we must have the necessary world opinion to support it. And if we are to have this opinion, we must have the right feeling underneath it. Such feeling, in turn, can exist only if races and nations be convinced that aggression and exploitation have had their day, that brute force is to be brought under mental and ethical control, that all-around justice is the fixed purpose—that civilization, in short, is to establish itself conclusively over barbarism. . . . . Public opinion rooted in right feeling has countless victories to its credit. . . . . Give it the light of the spirit and the light of the mind! Do this, and we shall march without halting to the permanent relegation of war.

Perhaps no better statement of the legal and social effect of war has been made than that of Justice Johnson in the case of *The Rapid* (8 Cranch, 155), given in the Supreme Court of the United States in 1814:

> In the state of war, nation is known to nation only by their armed exterior; each threatening the other with conquest or annihilation. The individuals who compose the belligerent states exist, as to each other, in a state of utter occlusion. If they meet, it is only in combat. War strips man of his social nature; it demands of him the suppression of those sympathies which claim man for a brother, and accustoms the ear of humanity to hear with indifference, perhaps exulta-

tion, "that thousands have been slain." These are not the gloomy reveries of the bookman. From the earliest time of which historians have written or poets imagined, the victor conquered but to slay, and slew but to triumph over the body of the vanquished. Even when philosophy had done all that philosophy could do, to soften the nature of man, war continued the gladiatorian combat: the vanquished bled, wherever caprice pronounced her fiat. To the benign influence of the Christian religion it remained to shed a few faint rays upon the gloom of war; a feeble light but barely sufficient to disclose its horrors. Hence, many rules have been introduced into modern warfare, at which humanity must rejoice, but which owe their existence altogether to mutual concession; and constitute so many voluntary relinquishments of the rights of war. To understand what it is in itself, and what it is under modern practice, we have but too many opportunities of comparing the habits of the savage, with those of civilized warfare.

There are elements which make for militarism and war, one of which is the control or dominant influence of the civil authorities of a state by the military authorities. In the countries under parliamentary government, the supremacy of the political departments is assured through the inclusion of the minister of war or defense and the minister of marine or the navy, in the cabinet, where he is, with the cabinet, collectively responsible to the parliamentary majority and individually responsible to the premier. He must, in this capacity, be a member of the parliament and must explain and defend the military and defense policies of his government. While men with a military cast of mind may be appointed to these posts, their political responsibility is nevertheless fixed. The budget, the military strength, and the pacific or belligerent character of military policies may thus be held up to review. In England, naval matters are under the direction of the Board of Admiralty. The First Lord of the Admiralty is really a minister of marine, and is the responsible parliamentary official. In England as elsewhere in the world, the army has been in politics more than the navy. Military command and civil control engulfed each other in a long

dispute. Down to the Crimean War, the British army was controlled by several authorities. But a definition of relations between the Secretary of State for War and the Commander-in-Chief had to be made. The military head was named chief-of-staff, not commander-in-chief, and civil control of the army was made complete, in so far as policy was concerned. A very sharp line is drawn, however, between the political and the technical phases of military affairs.

The British learned during the Great War that the military mind does not cope with all situations which arise in modern warfare. Lord Kitchener was recalled from Egypt, where he had made an excellent record as a proconsul. His special task was to "speed up" the manufacture of munitions. His gifts did not lie in the field of inspiration and imagination. He could command when against failure to obey could be invoked the inevitable military law with its summary procedure and its terrible penalties. But he could not win the people to him. He could not persuade. The indomitable Lloyd George, when called to the same ministry, achieved in a short time the results which the ministry sought. His methods would have been ineffective on the field of battle. But they were appropriate for the task in hand. The divorce of the military forces from the control of policy and the parliamentary responsibility of the minister of war or marine, have done much to neutralize the dangers of professional military control.

The United States has been neither a great sea power nor a colonizing power until comparatively recent times. Therefore she has escaped many conflicts which have come to other powers because of their desire to control backward peoples and to control the seas. Such a policy required only modest defense establishments. The initial impatience of the people with standing armies is shown in the constitutional provision that there shall be no quartering of soldiers in time of peace. The army and the navy departments

are under the direction of civilian chiefs, appointees of the President and directly responsible to him. They must keep their ears to the ground, to discover, if possible, the drift of public opinion with reference to national defense. The supremacy of the civil departments over the military is fixed for all time in the American Constitution by the provision that the President of the United States shall be commander-in-chief of the army and the navy. The army and navy chiefs are subject to his direct command. The control of military affairs is lodged by the Constitution in Congress. It has power to raise and support an army; to provide and maintain a navy; to make rules for the government and regulation of the military forces; to authorize the use of the militia to execute the laws of the Union, suppress insurrections, and repel invasions; to provide for organizing, arming, and disciplining the militia; to declare war and to make rules for captures on land and sea; and to make all laws which are necessary and proper to carry these powers into effect. The foreign relations control is vested in the President and the Senate. Under the Constitution, the civil authorities in the United States are completely invested with the control of the military forces, and the military authorities are divested of such control.

It is common practice to divide the early American statesmen into categories and to attempt to explain certain political tendencies by these divisions. The "administrative" school of statesmen were men of affairs rather than of theories and were interested in performance rather than discussion. Washington was a member of this group because of his commanding the revolutionary army and because of his practical bent as farmer, engineer, and man of affairs. Hamilton belonged to it because of his part in the war and his trend toward practical financial arrangements. Marshall belonged to it because he was a soldier in the army at Valley Forge and because of his view of a government which provided ample powers for accomplish-

ing its ends. These men are supposed to have set the pace for the Federalist Party. Certainly their hand can be seen in American history.

Washington as the first President set a tradition which can never be ignored. He clearly had the administrative conception of the Presidency, and the idea of political or party leadership was revolting to him. Hamilton laid the foundation of our financial policy. He aimed to introduce into the Constitution stabilizing and centralized provisions rather than democratic ones. Marshall for a third of a century interpreted the Constitution in the interests of federal supremacy. The federalist idea and the official conduct of these men influenced the trend of political development in our country. The Presidential type of government was made possible, not only by the powers vested by the Constitution in the President but also by the use Washington made of the office. It was an opportunity for leadership, but leadership personal and administrative rather than responsible and political. The right of the courts to restrain the political departments and the states in attempts to override the Constitution, and the supremacy of the federal Constitution and the laws may be laid to Marshall's influence. Hamilton was always an aristocrat, distrustful of democracy, but he would use political means to achieve his ends. To what extent these men were influenced by a military cast of mind and by their military experience is indeterminable. Their impatience with politics, parties, and popular control may perhaps be explained by their sense of order and by their leaning toward directness in administration. It is a quality which is exemplified in the modern business executive as well as in a military officer.

The "political" school of statesmen were devoid of military experience, it is said, and were interested chiefly in setting forth the political theories and ideals of the Revolution. After independence, they became interested

not so much in state action as in state discussion. They were not so concerned with the direct administration of affairs and with getting things done as with discussing extensively what should and should not be done. Therefore they favored the development of factions and parties and the development of the Presidency as a political office as well as headship of the state. Jefferson was a member of this school because he did not fight and because he could draft a Declaration which would serve as a justification for the war. Patrick Henry was a member—an orator but not a fighter, still less a thinker. Samuel Adams also belonged to this group. Jefferson is clearly identified with the development of our national life. As Secretary of State he was influential in inaugurating our peaceful policies of non-intervention, neutrality, and *de facto* recognition. The weight of Hamilton's influence was thrown against these politics. Jefferson became President of the United States in response to the growing demand that the political features of the Presidential office should be developed and that the people should have the opportunity to express their will through parties. In two important particulars, therefore, Jefferson influenced and directed our peaceful, non-military course.

In foreign affairs, he encouraged peace and discouraged huge military forces by establishing that we should keep out of affairs which did not concern us, that we should remain neutral in conflicts where our interests were not affected, and that we should not involve ourselves in pronouncing judgments on the efficacy of new governments. In domestic affairs he was the means of making the Presidency a political office, and therefore a more responsible one, subjecting his acts, civil and military, to the review of the people of the United States. Such men have been called "chimney-corner soldiers." How much their point of view was influenced by their non-military experience cannot be determined. Perhaps it merely represents a

sense of responsibility, a desire for counsel and consultation, a solicitude that what is done shall have the "consent of the governed." I am convinced that the possession of military experience is not primarily responsible for the virtues of the first type and the lack of such experience is not responsible for the vices of the second. If the alleged explanation is insisted upon, how would one account for the vices of the first and the virtues of the second?

Dangers attend the interference with the technical business of the army or navy by politically minded men whose motives may be good but whose judgments may be unsound. Then the question of motive will inevitably be raised. Theodore Roosevelt was during the Great War President Wilson's severest critic. After the war had been declared, Roosevelt sought authority to raise a volunteer division and to lead it on the French front. He visited the President and laid his plan before him. In speaking to a group of young men in the Ambulance Corps, from the University of California, Roosevelt said that in this war men must be willing "to spill their blood like water." He wanted to join them, but did not know what "the gentry at Washington" would let him do. In a later speech, in answer to a query why he did not himself enlist, he replied: "You ask somebody else that. And, you man over there, what right have you to ask that question of an American father who has four sons at the front?"

No one could doubt the sincerity of Roosevelt's desire, even though his criticism of the administration did sting. The reply of Wilson was a model of the restraint and the finality which usually characterized his decisions. He perhaps had cause to be sarcastic. But he was President. And he was Wilson. In his reply he assumed responsibility for the conduct of the war under his constitutional powers, just as Roosevelt would have done. He therefore assumed responsibility for the decision. The project of Roosevelt's would have a distinct political advantage, and would doubt-

less have an excellent political effect; but modern warfare was a terrible business, which must be conducted according to business methods, and something other than a political tonic or gesture was needed. It was a plain statement that the conduct of the war was in the hands of General Pershing, at the head of the American Expeditionary Forces, and should remain there. One who might not be disciplined by the restraints of the soldier might endanger the victory. We were allied with other countries whose armies were controlled in the field by masters of warfare. We could hardly afford to entrust the command of an American division to a statesman.

The act of Mr. Wilson, clearly sound on grounds of policy and principle, also prevented the possible use of a military career or record for political purposes at home. It is important not only that the civil authorities should control the military but also that persons of civilian status who are politically minded should not have primary positions in the business of war. Such a situation would have indicated that the war mind is the peace mind and that civil administration is better in the hands of men with military records; whereas the professional general is less likely to seek political preferment than the volunteer general.

Another interesting situation was the controversy between Admiral Sims, ranking naval commander of the American forces during the Great War, and Josephus Daniels, the civilian chief of the Navy Department. Mr. Daniels was unpopular from the start. He was a pacifist and therefore opposed to a large navy. He attempted to modernize ship terminology. Then, anticipating the Eighteenth Amendment, he made the Navy "dry." Admiral Sims, after the war was over, severely attacked the policy of Mr. Daniels. He alleged interference on the part of the Secretary with the operations of the American fleet, and declared that these pretensions of the Secretary not only

delayed action and results but even delayed victory. For example, his opposition to the use of naval ships for purposes of convoy delayed the shipping of supplies to the Allied powers and to the American army. Sound naval policy, declared Admiral Sims, dictated the complete articulation of the American forces with the British forces. The Secretary interfered with this work of co-ordination. It is a question as to the readiness with which a military official should rush to print or to the platform in condemnation of the civilian heads of the service. Certainly, the interference of the Secretary, if true, was irregular and unjustified; and the criticisms of the Admiral, who seems to have no political aspirations, have indeed had a part in neutralizing any effort on the part of Mr. Daniels to capitalize politically his headship of the Navy Department during the war.

In past years, there has been a tendency to reward generals for military services. History proves that in most cases these men have lacked political ability, imagination, capacity for inspiring political leadership, and even administrative ability. Since the last war, there is less tendency to reward them. General Wood, a leader of the preparedness movement in the United States, with frank political ambitions, was not allowed to serve actively in France. After the war, he entered the lists for the Republican nomination to the Presidency in 1920. With a large campaign fund at his disposal, he made a substantial dent in the primary campaigns. But the Republican Convention had other plans. It stood, for the time, for the policies of non-intervention, rapid restoration of the condition of peace, and limitation of armament. Nor was great preferment shown by either party to the military leaders. The defeat of the party in control of the war followed at the polls. In the European governments also, the war premiers were in time retired from office, showing that the tendency we have considered was not confined to the United States.

It is one of the hopes of democracy that neither the professional military leaders nor the men who directed policy during the war have been allowed to turn their war records, either professional or civilian, to political account. This marks a definite drift away from the war mind and from the "Napoleonic legend." Napoleon's view of military and civil leadership and domination did not make the French great, but drove them mad. The new attitude proves that mankind can limit the scope of military activities, and indicates that there may be even further limitation of the uses and the strength of military and naval forces.

CHAPTER XXVIII

MILITARISM AND DIPLOMACY

It is not uncommon for the military and the diplomatic services to make rival claims as "the first line of defense." A comparison of function and purpose will disclose the differences between military and diplomatic minds. The military mind would make the foreign office an appendage of the department of war, and the diplomatic service a series of military outposts. The soldier is taught to strike. The diplomat is taught to persuade. When friction arises which threatens a breach, the soldier's first reflection is to attack. The diplomat will seek to negotiate. The military mind would brook no compromise. The diplomatic mind would conciliate. If a treaty stands in the way, the military mind would scrap it. The diplomatic mind would observe its terms, and seek appropriate changes. The military mind would attack suddenly and boldly. The diplomatic mind would use hostile measures only as a last resort. The military mind would rest all war on necessity. The diplomat would try to explain it as a step toward peace. The military mind regards military power as the foundation of the state. The diplomat regards it merely as an instrument of statecraft. The strategist seeks to write into the pages of history the exploits and conquests which he has led, and seeks situations which will make them possible.

Indeed, Bismarck encouraged this as the proper attitude for the army. He said: "It would be regrettable if the warlike spirit did not thus permeate the army." It was a part of the "necessary spirit of the institution." The civil authorities could make good use of such an army and could restrain it within proper limits. "The duty of keeping the effects of this spirit within the limits which the need of the people for peace may justly demand, rests upon the political and not upon the military heads of the state."

Power and prestige dominate where diplomacy is under military control. It will inevitably lead to the prostration of diplomacy, the violation of international law, the scrapping of treaties, the invasion of states, and the substitution of direct attack for negotiation.

While the diplomatic mind is turned toward peace, it is ever ready, if need be, to promote the military purposes and policies of the state. Diplomacy does not believe in the politics of power and prestige, and does not seek war for its own sake. It works valiantly to seek a peaceful solution to disputes rather than a belligerent one. If the diplomat staves off a war, it is his victory. If he does not, the victory goes to the general. The unfortunate thing is that the general so often gets the chance. The foreign office and the diplomatic service seek for the state a reasonable respect for its rights. They seek to preserve it against unreasonable attack and to prevent any combinations against it which are too powerful. To resist such a combination, the state may be compelled to join another. It is usually for defensive purposes and in the legitimate interests of security. The diplomat must seek to avoid a conflict with a power or a combination which would bring on defeat. He must also not encourage a war which would not be worth the effort or which would bring a fruitless victory. If a war unhappily comes, the diplomat must either keep neutrals out of the conflict or bring them into it on the side of his state. He must seek to maintain the integrity of the alliance of which he is a member and to break up the competing one. As the war progresses, he must define and defend the war aims of his government and justify the war measures of his government and its allies in the eyes of the world. Under the system of alliances, which has the salutary purpose of maintaining a balance of power between competing combinations, he must appear to be working for peace and for defense when he is really preparing for war.

The trouble with the system of alliances did not lie in its desire to neutralize the effect of a more powerful combination or to secure the interests of a nation. It was predicated on the inevitability of war, and on this assumption nations prepared for it with a thoroughness which aided the idea of inevitability. In this manner, diplomacy has been diverted from the business of keeping the peace and has devoted itself to the business of war, even in time of peace explaining, defending, and justifying war or plans for war. The peace department of the government should be emancipated from such business as much as possible, on the theory that first things come first and that preparing for and keeping the peace is as important as making plans for war.

This system has been the curse of Europe. Diplomacy is now escaping its enslavement, through the League of Nations. There is no further need of alliances except as they provide genuine security, such as the Locarno pacts. Where the peace of Europe is threatened, it can be discussed in the open, before the accredited nations representative of the world, rather than bounced about from foreign office to foreign office. Europe has not been properly organized for peace. The capital defect of the past is supplied in part at least. The "armed peace" has proved to be neither lasting nor just.

Secret diplomacy has always been an aid to militarism. The merely secret character of the treaty or engagement has not made this type of diplomacy dangerous. The danger is due to the military or strategic character of the diplomatic conversations or of the clauses of the treaty. Preparation for war and the singling out of possible enemies thus began in secret, and often without the least suspicion on the part of the potential adversary. While the existence of such compacts often was announced, or leaked out in time, their substance was not revealed. In some of these cases, the parties to them, like individuals, preferred

the darkness to the light because their motives and measures were evil. Secrecy contributed to the uncertainty, the suspicion, the hatred, and the international anarchy which brought on the war. It opened the charge of militarism as the ultimate objective of diplomacy. The stipulation by President Wilson that in the future there should be "open covenants, openly arrived at," opened the door to the abolition of this abuse. The registration of treaties by the League of Nations is the practical manifestation of this ideal.

Another relation between the foreign office and the military departments is now under careful scrutiny, especially in the United States. It is the business of the Department of State, the foreign office, and of consuls and diplomats throughout the world to provide for the protection of nationals, their lives and property, where it is not or cannot be done by the titular government or where rights are arbitrarily invaded by the acts of foreign governments. The United States has assumed this task for other governments in certain Latin-American states. A growing conviction in these states regards the foreign creditor as in a preferred position because he may appeal to the protection of his foreign office if not satisfied with the government's settlement, whereas an ordinary citizen has no further redress after he has exhausted the local remedies. The obvious answer to this argument is that the American citizen, within the United States, has no right to appeal to a foreign government, while every alien may appeal to his foreign office if he chooses to do so. Another answer is that the states affected might so organize their administration of justice that the appeal to the foreign office by the alien would be less frequent. Nevertheless, in Mexico, Americans must forego diplomatic protection if they would engage in business. The active protection of these interests sometimes entails use of the armed forces of the United States. A body of American opinion would

allow aliens to engage in business in foreign countries only at their peril, without the diplomatic protection of the Department of State and never with the military protection of the government. Resolutions have been introduced in Congress which would limit the authority of the President to use the armed forces of the United States for such purposes without the consent of Congress. This is a bold suggestion, for the business of diplomacy is to secure a decent regard for the rights of nationals abroad. It is significant as indicating the drift of opinion on this subject.

The limitation of armaments has long been an ideal, a step in the direction of an ordered world. To be effective, it is realized that the agreements must be general rather than special and that the leading powers must all be parties to them. Agreements limited as to parties, region, arm of service, or other subject fall wide of the important goal. The First Hague Conference was invited initially to consider the question, not of the limitation, but of the non-augmentation of land and naval forces and of military budgets. This Conference frowned on the positive recommendations of the Russian Government. Both the First and the Second Hague Conferences merely called attention to the increasing burden of armaments and expressed the hope that steps might be taken in the direction of limitation.

The most important positive step since the war was the treaty signed at the Washington Conference in 1922. The leading naval powers, the United States, the British Empire, Japan, France, and Italy, agreed to limit until 1937 their capital ships, respectively, according to the following ratios: 5, 5, 3, 1.67, 1.67. It merely meant that the *status quo* in naval establishment should be maintained during the life of the treaty. To do this it was necessary for the powers to relinquish their naval construction programs and to scrap a certain number of ships. The powers also agreed not to fortify their naval bases in the Pacific

beyond their present strength. The powers agreed not to use the submarine as a commerce destroyer and to regard the seizure or destruction of merchant vessels without proper notice or safety provisions as an act of piracy, which any party to the treaty may proceed against. Poisonous and deleterious gases were also outlawed for war uses. The Conference did not limit the military forces on land, nor did it limit the submarine forces; France objected to both of these proposals. Great Britain accordingly opposed the limitation of the construction of light cruisers. Aircraft construction was also left unregulated.

One of the aims and ideals of the League of Nations is the limitation of armaments. By Article 1 of the Covenant, adhering states must accept the regulations of the League of Nations as regards military, naval, and air forces, and as regards armaments. Under Article 8 the Council is empowered to submit plans for the reduction of armaments and to suggest means for the control of the private manufacture of arms and implements of war. Members of the League agree to exchange military information freely. By Article 9 a permanent commission is to be established to advise the Council on the armaments clauses of the Covenant. The "Permanent Advisory Commission for Military, Naval, and Air Questions" was accordingly set up, composed of three men from each state represented on the Council, and representing the air, naval, and defense or military departments. It was divided into the military, naval, and air sub-commissions, the natural functional division of labor. It set about to make preliminary studies of the League regulations with respect to the forces and armaments of states seeking admission, the control of traffic in armaments and munitions, and the use of poison gas in war. There was set up also a temporary Advisory Commission, which was to give advice more progressive in character than that of the technical members of the Permanent Commission. This included six persons

from social, political, and economic circles, six from the International Labor Office, six from the Permanent Commission, and four from the Economic Committee of the League. Its work had to do with linking together the problems of arbitration, security, and disarmament. Its achievement was the Geneva Protocol, which failed of adoption. To aid the Permanent Commission and the more occasional bodies dealing with armaments, the Disarmament Section of the League Secretariat has been established, which functions as a bureau in charge of detailed administration.

The Sixth Assembly in 1925 discharged the temporary advisory commission. It resolved that "mutual confidence among the nations" should be re-established; that "a war of aggression should be regarded as an international crime"; that "arbitration, security, and disarmament" were the sure method of establishing peace; and that to that end the Council should make a preparatory study, with a view to a conference, at which limitation and reduction may be realized. A Preparatory Commission was appointed, composed of the representatives of twenty nations (nineteen members of the League, and the United States). An important questionnaire was drawn up to define the scope and purpose of the work of the Preparatory Commission. These inquiries embraced the meaning of the term "armaments," war or peace strength as a basis, standards of measurement of one country against another, the principles on which a scale of armaments may be drawn up, the question of aircraft, and the relative values of regional and general disarmaments.

The work of the Preparatory Commission involved a detailing of technical questions, including problems of organization. In its initial stages, it was determined that the advanced proposal of Great Britain, Germany, and the United States, to abolish conscription, could not prevail. The Continental powers, however, agreed to limit the terms of service of their conscripted men. Sub-committee

A, considering technical military questions, found some knotty problems. One was whether or not reservists should be included in the limitation of land armaments. Then, should naval disarmament proceed with regard to total naval tonnage or with respect to the tonnage of each class of ship? Should civil aircraft be considered in limiting air forces? Sub-committee B, considering financial and economic questions, found that a mere examination of military budgets would serve no useful purpose, that the special needs and conditions of each state must be studied. Conferences on disarmament were held after the Preparatory Commission had finished its work. It was expected that these conferences, special and general, would result in a general disarmament convention, open to the signature of all the powers. Substantial reduction may not be achieved at once. But a genuine and universal disarmament treaty will probably prevent a future race in armaments, which is one of the things which leads to war. The conditions on which nations can disarm will, it is hoped, be determined, and the problems of definition and measurement will be in part settled.

The general conferences on the limitation of armament, to which the United States has been a party, have failed in the effort further to limit naval armament beyond what was determined in the Washington Conference agreements. Great Britain and the United States have assigned the reason for failure each to the other. Great Britain wanted a larger number of cruisers, while the United States wanted a smaller number of battleships. At bottom, the controversy is over the freedom of the seas. Great Britain does not wish to surrender such primacy on the seas as she now enjoys. The United States is the only country in a position to challenge it. A race in naval armament has been resumed, even at the time the Kellogg-Briand anti-war pact is under consideration by both countries. Naval increases and the anti-war treaty may be, and I believe are, consistent

and compatible. The basis for comment is the inability of the governments to agree on a perfectly reasonable proposition. Perhaps the unauthorized, but novel, suggestion that the legislative committees of the two countries get together may be a wholesome hint to the executives that something must be done. That England and America cannot agree is to the everlasting shame of both countries.

The enforced disarmament of Germany by the Treaty of Versailles has set an example to the victor states which they might apply to themselves. The German army is limited to 100,000 men, and the navy to 6 battleships, 6 cruisers, 12 destroyers, 12 torpedo boats, and no submarines. There are to be no air forces. The German supply of munitions was restricted, the surplus being surrendered to the Allies. The importation and the exportation of munitions are prohibited by the Treaty. There are prohibitions as to fortifications within restricted zones, constituting the process of "demilitarization." Moreover, Allied occupation of certain territories for fifteen years is an additional safeguard. With the admission of Germany to the League of Nations in 1926, the problem of the regulation of her armaments was raised. It has been transferred from the commission of control set up by the Treaty of Versailles to the League of Nations.

A draft treaty regulating the private manufacture of arms has been signed by a few of the powers. A conference is to be called with a view to universal and more effective regulation of this phase of the subject.

Much difficulty attends the limitation of armament because of the lack of standards of definition and measurement. This defect must be supplied. Señor Madariaga, formerly of the Disarmament Section of the Secretariat, has defined disarmament as a fractional relation, with armed power as the numerator, and a nation's requirements as the denominator. What, indeed, are armed forces? If men, do they include reservists, territorials,

regulars, the citizenry? If materials, do they include hospitals, machine guns, the bed of a soldier? If money, what items may be regarded as constituting a military budget? In the matter of budgets, it is clear that the prosperity of the country has a part in determining what is included. The denominator, a nation's needs, has been defined in part by the Covenant. One such requisite is adequate national defense. But this varies as do artificial and natural frontiers and other conditions which vary from country to country. Again, the nation's needs require a force sufficient to maintain international obligations through joint action. This is a subjective matter, and depends upon a nation's view of its prestige, and of the rôle it has to play in the world. The problem of disarmament is not so simple as it seems, and we must not be impatient with gradual progress. In the meantime, we should disarm the spirit of the people, making ready to accept the recommendations which would disarm the spirit of matter.

Lord Robert Cecil, speaking in the House of Lords on November 17, 1926, declared that disarmament is now "on the map." Two things had appeared from the preliminary discussions: first, that good-will prevailed everywhere; and, second, that disarmament is a practical thing. Three conditions seemed essential to success: (*a*) the peoples and governments must be earnest in the matter; (*b*) people must not be in too much of a hurry; and (*c*) every country must have unlimited opportunity to say what it wants and to make proposals without restraint. On these foundations the future of disarmament seems to rest, and this is true, even in spite of recent failures to disarm.

CHAPTER XXIX

CAN WAR BE OUTLAWED?

The outlawry of war is an aspiration which all civilization hopes to attain. All persons should join in efforts which work toward that end. But an agreement to outlaw or a reliance on sanctions of prevention cannot be accepted as marking the disappearance of the state of war. We have had for centuries constitutions of government and sovereign and independent states which seek to prevent all kinds of domestic disorder and especially to prevent any recurrence of civil wars. Yet with this contrary organization, authority, and sanction, far exceeding that of the international field, it cannot be said that civil war has disappeared from the earth. It is a fatal assumption to make that war will be no more, or should be no more; and therefore all effort should be given over to measures of outlawry or prevention. It is also fatal to assume that war is so bad that nothing can be done about it except to work against its recurrence. Something was done about it in the past. It is the part of wisdom and statesmanship that we shall work for prevention, but, knowing the weakness of mankind to depart in time of stress from a noble ideal, that we shall join also in measures which will mitigate its horrors, should it come.

The current of present feeling is discouraging to one who, marching on to higher ground, would like to do so by retaining the progress and the advancement of the past. If we persist in the present mental attitude, we shall one day be rudely awakened to find that we are on sinking sand rather than solid ground. The widespread view may be illustrated briefly. Officers of the army and navy feel, in many cases, that a redefinition of the laws of war is useless, on the ground that they will be ignored in the future as they were during the last conflagration.

At a recent meeting of a learned society, a distinguished army officer assigned to discuss the subject, "The Laws of War," changed his paper to read: "Is There a Law of War?" In view of the variations in the past war from previously accepted standards, he concluded that we should aim, through international effort, to prevent war, but, should it come, nothing can be done to reduce its horrors. He was warmly seconded by a professor of political science. Tolstoi has declared that war is barbarism; that mitigations of it will tend to make it a "pink tea" affair; and that, if it should come, it should be made so terrible that mankind will tire of it. Many people agree with Tolstoi, taking the view that the only thing worth while is the prevention of war and not its regulation!

What a surrender on the part of workers for peace to the military and the war mind! Those who believe in war and profit from it, seek nothing more than to spread the idea that future wars will involve all mankind, combatants and non-combatants; that wealth and man- and woman-power will all be conscripted; and that all men, materials, and money will be joined in the death grip. Hence, they imply, all efforts to reduce war to its past dimensions and limits are wasted and useless. And they win their point when they can deflect all peace effort from a task of immediate and manageable proportions to that of ultimate perfection!

The subject is all the more serious when teachers of international law, versed in the history and development of their subject, are led by some sort of impression or reasoning to reach approximately the same conclusion. They must, in the main, determine the scope and content of their science. They have, therefore, not only a heavy intellectual task but a serious duty to humanity in their manner of "reconstructing" their science. If war unhappily does come, even though it be barbarism, it is the business of the jurist to make its control and regulation as

great as possible and to restrict its activity in the interests of humanity, economics, innocent and neutral parties, and in the interest of the recovery, even of the defeated state, as rapidly as possible to its place in international society.

The greatest task today is that of orienting the rising generation in the field of international justice. The orientation is not complete if no attention is given to the laws of war. The soldier with the war mind will welcome the scrapping of the restraints which have developed and which have very substantially modified the former practices of warfare. Civilization has been and is a race between international law and war. The scales have turned in favor of war. But the condition will not be helped by a surrender on the part of the jurist and the international lawyer to the war mind, which contends that future wars must involve all the people and all the resources of the enemy states. Is it not better to outlaw and destroy *if* we can, but to improve and moderate *as* we can?

Professor John Bassett Moore, in his admirable essays which bear the title *International Law and Some Current Illusions,* has laid down some fundamental distinctions and principles which, up to the last war, had become accepted maxims in the code of war. These were:

1. The observance of the distinction between combatants and noncombatants.

2. The protection of property which would not be put to military uses.

3. The abolition of the confiscation of private property, except as permitted at sea, for special reasons.

4. The right of neutrals to trade with each other, and with belligerents, subject to definite conditions.

The disregard of these rules by some of the belligerents has raised a question as to their validity. The draft of armies, the employment of men for munitions workers, and the general integration of all the man-power and the resources into the war scheme and the war organization

lend a certain color to this theory. Along with it is the view, with the abolition of the distinction between combatant and non-combatant, that all persons in the enemy state, including women and children, are the legitimate prey of the enemy and subject to hostile attack.

The protection of private property in the zones of occupation should be encouraged. There is a difference between damage to property in a conflict between forces operating under the laws of war, and the wanton destruction of property. Anyone who has visited the battlefields of Europe will understand the destruction which took place in France when the opposing armies were fighting for supremacy. It was unfortunate, but was in line of war. Few can understand, and none will condone, the destruction of Louvain, which was pure devastation. Moreover, the property of enemy aliens, located in the enemy country, should not be confiscated, and should at least be held for the owner, pending the restoration of peace. Wars do have the habit of ending, peace is restored, and business relations are resumed. Fairness in this matter during a war will pay dividends upon a return to peace.

A state is within its right to seize property, if it will contribute actively to the resources of the enemy. But this should be based on evidence, not on hysteria, and the trusteeship should keep faith with the legitimate owner when the danger is removed. Moreover, the right of neutrals to trade with each other and with belligerents is worth considering. To be sure, the contraband divisions were wiped out, and the limits of blockade were indefinitely extended, until almost anything could be named contraband and any trade with belligerents made illegal. A return to the distinctions of contraband of war and to the limits of blockade is fundamental to any return to the rights of neutrals. It is indeed a false philosophy that belligerents may use the institution of war to invade the rights of innocent third parties. To admit that they can do so at will is to make

ourselves a party to the growing destructiveness of the institution of war. A return to these principles, and a redefinition of the laws of war along the lines of former endeavor will be opposed by many. But it is the path of progress.

The use of scientific instruments in warfare has indeed increased its horrors. Unless the scientists disarm and these measures are put under control, the next war will be one of annihilation. Steps are being taken in a return to sane measures. The Washington Conference fixed the status of the submarine as a war instrument and outlawed the use of poisonous gases. The abolition of the use of gases and chemical materials is recommended, first, because of the way it affects non-combatants, and, second, because of its inhumanity as an instrument of regular warfare. Admiral Rodgers and General Pershing have urged the necessity of returning to this primary distinction.

The development of a plan of outlawry which will really outlaw war is considered by many to be the problem of the day. But can anyone be sure of it? In every such effort, something has always happened to prevent agreement to the principle. We have no assurance that such an agreement, if made, would be kept. A sanction cannot take the place of the progress which has been made over a large number of years. When the League of Nations was heralded as the instrument to outlaw war, the United States failed to join. By its provisions, war was actually legalized after three months' employment of peaceful methods. When the Geneva Protocol was being drafted, it seemed that the dove of peace had at last settled over the world. But the British Government, despite assurances of the British Labor Party, refused ratification on the alleged ground that the United States would be unaffected by it. There is always a reason. The last war was described as the "war to end war." But some of the peace issues have the elements of an impending conflict. We must be patient but

objective as to all outlawry schemes which would set aside the efforts of the past. We cannot pin all faith in them. We cannot assume that life is different from what it is. We must take it as it is, and life in the world as we find it. We cannot ignore the safety zones of the past for the unproved millennium of the future unless we want war to have unlimited sway, which will increase its power and destructiveness.

Wars will come again in spite of all we can do to prevent them. Not all of our effort should be given to the noble but more remote work of destroying war. If we do not live up to the light we have, that will be taken away from us. Emphasis on humane conditions of warfare will be insisted on only by the friends of civilization and peace. We may all join in the great effort to prevent war and to preserve peace, on the theory that henceforth war shall be no more. But in following the illusion of an immediately warless world, we shall find ourselves engulfed in some sanguinary conflict, unlimited as to scope, persons, and measures, which may destroy civilization.

The protocol for the outlawry of war represented an effort to do more than the League of Nations had done in bringing war to an end. Its preamble recited that wars of aggression constitute an "international crime," which the nations party to the engagement would outlaw, through definite guaranties of security and under the process of compulsory arbitration. But the powers regarded it as too advanced a step to take at this time. Locarno succeeded the protocol. The nations have attempted disarmament and the limiting of war on a more modest scale through the progressive reduction of armaments.

The Temporary Advisory Commission on Armaments of the League of Nations reported the treaty of mutual assistance, which became, after amendment, the Geneva Protocol. France insisted that any scheme for outlawry must be tied to the questions of security and arbitration.

There must be a definite sanction. As Herriot contended, might and justice had to be mated. While war was declared to be an international crime, other provisions gave "teeth" to the protocol. The Council could say within four days whether or not an act of aggression had been committed. If so, the member states would give general and mutual assistance to the injured party against the aggressor. Disarmament under a general treaty was pledged, and the Permanent Court of International Justice was designated as the body to interpret the treaty.

The failure of this advanced idea, due in large measure to the inability of its leading proponent, Mr. Ramsay MacDonald, to secure its ratification, is a warning against expecting too much and giving up what we have in the hope for more. Locarno was the logical successor of the protocol. It regionalized the problem of security. The states most concerned, Germany and France, agree not to invade each other aggressively. England and Italy, as guarantors, agree to join against the aggressor state. The modest, regional measure is successful. The great ideal failed.

These regional understandings of security will help to make for peace. Moreover, it is healthy for the nations affected by the problem of security to make the first pledge of peace, before asking other states to guarantee their position. Disarmament, regulation of war, and security against war are steps toward prevention.

In the British Empire and most of its parts, in Bulgaria, Germany, the United States, and Uruguay, the armed forces are recruited by voluntary enlistment. In Czechoslovakia, in Finland, France, Italy, Japan, Rumania, Jugoslavia, Spain, and Sweden, military service is universal and compulsory. In Argentina, Belgium, Brazil, South Africa, Chile, the Netherlands, Poland, and Russia, service is compulsory. In time of war, most states resort to the system of enforced military service. A step in the right direction would be the abolition altogether of the

principle of conscription. Nothing encourages the military tradition more than an enforced service in time of peace, especially a long-term service. It means the development of a war psychology which stays with youth when once planted there.

Compulsory military training in the schools and colleges of the United States has been subjected to serious criticism within the last two years. It is contended by its opponents that the system is forced on the students against their will; that it teaches the student the art and the business of the soldier rather than merely contributes to his civic and physical improvement; that it creates in the mind of the student a war psychology at a time when nations are trying to rid themselves of this derangement; that compulsory training is a form of preparedness which is an invitation to an eventual war; that any such training should be made purely voluntary or that courses on peace should be given an equal amount of time.

Those who defend compulsory training insist that pacifists and disarmament enthusiasts merely seek to get control of the American youth during his impressionable years in order to sow doctrines subversive of the government. To do this, they seek to exclude military training. Military knowledge and the existence of armies, it is contended, have not caused wars in this country. They have come from other sources, and our military forces have inspired a certain respect on the part of potential aggressors. "The primary mission of the Reserve Officers' Training Corps is to impart to young men and women of our country a proper conception of their rights, privileges, and responsibilities as citizens, together with proper preparation of each and every one to render some useful service in the organized defense of the nation in an emergency," General Charles P. Summerall has declared. The following quotation from a statement of President W. W. Campbell of the University of California, is interesting for the position

which it takes, and also for the interesting theory of education which it sets forth:

> The State of California, the people of California, through their representatives duly chosen, have determined and said how the young men of this state may attend the University of California, *not as an inherent right, but as a privilege.* They have this inestimable privilege, provided, among other things, that they pay to the university somewhere from one-quarter to one-fifteenth of the cost of the services rendered unto them by the state through the university; and provided, further, that they take military training two hours per week for two years, or about 130 hours altogether in their college career. I am of the opinion that in this requirement the state is justified, and the student is fortunate.

It is also urged that this training has a value apart from the military policy of the government. Physical vigor and well-being, self-respect, pride, deference to authority, courage, and the essentials of leadership, honesty, and integrity are some of the valuable lessons which are taught. The restraints of the soldier are held up as of less danger to the state than the inflamed pronouncements of the radical pacifist.

Militarism is our greatest social disease. It is something to be avoided, if a nation is free from it; and to be removed, if a nation is obsessed with it. By militarism I mean the possession of a war mind. Measures of defense are necessary so long as there is a possibility of war. It would be folly to argue otherwise in a common-sense world. No country will expose itself to the indiscriminate attack of an enemy of known hostile intentions. Reasonable measures of defense, therefore, do not make a nation militaristic. Compulsory training in the colleges, as we know it in the United States, is not evidence of militarism. Even active preparation for war need not amount to militarism. The use of compulsory process for recruitment, even over a long service period, does not of itself make a militaristic nation. Each country maintains a professional military class which makes plans for the defense of the

country, and, if the policy is offensive, plans for aggressive action. This need not be militarism.

When a nation allows its civil authorities to be dominated by the military authorities, when political considerations must yield to military considerations, when diplomacy is merely a channel for the making, defense, and justification of a war, and for purposes of military strategy, then a nation is militaristic. It is, after all, a condition of the mind. A nation which wills to be militaristic will be so. A nation which seeks in its heart to be peaceful will be so. Disarmament, arbitration, the regulation of war, and the guaranties of security are steps in the right direction. Cannot the soul of man respond to its deepest yearning and rid itself of the spirit which seems to spell its doom? We cannot be altogether blamed if, in an honest effort to do so, we at first miss the mark, so long as our aim is high.

CHAPTER XXX

THE PACT FOR THE RENUNCIATION OF WAR

The arrangements for peace following the Great War have been, in a measure, disappointing. The League of Nations, looked upon as a means of preventing and outlawing war, has in some cases apparently prevented it but in others has almost caused it. The very terms of the Covenant recognize the legality of war after the expiration of a certain period, during which other modes of redress, including certain vigorous sanctions, may be tried. The Great War ended as "the war to end war." The world has felt that this desirable end is far in the future. Efforts were accordingly made, in Europe, to attempt the "outlawry" of war. It first took the form of the Pact of Mutual Guaranties, which, after amendment, negotiation, and discussion, developed into the celebrated Geneva Protocol. This remarkable document linked together the three ideas of security, arbitration, and disarmament in such a manner as to push forward the lines of defense against war. It seemed for a time that a new day had dawned in Europe. But the powers found reasons for rejection. Great Britain's are sufficiently typical. She could not agree to refrain from fleet and troop movements in time of war or threatened danger, owing to her policy of concentration of forces in her strategic centers of her far-flung empire; nor could she reduce her naval forces when her leading competitor in naval and sea power—the United States—was not a party to the treaty. This noble but vain attempt yielded to the regional Locarno agreements, under which the states most concerned in the security question, France and Germany, have agreed to respect the territorial integrity, each of the other, with England and Italy as co-guarantors. The world has felt, however, that something was lacking, and the governments of the countries, after all only servants

of the people, could only respond favorably and affirmatively to the insistent demand for some agreement which would go as much of the way in preventing war as civilization is now prepared to go.

The Kellogg-Briand Treaty for the renunciation of war is an answer to this demand. Let us consider briefly its provisions. The preamble recognizes the duty of the signatory powers "to promote the welfare of mankind"; regards the time as at hand for the renunciation of war as an instrument of national policy; expresses the conviction that changes in foreign relations shall be peaceful and that signatory powers advancing their national interests through war should not enjoy the benefits of the treaty; and invites the adhesion of other nations to the treaty. By Article I, "the nations party to the treaty" condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy . . . ." By Article II, the powers party to the treaty agree that only peaceful means shall be sought as a settlement or solution of all disputes or conflicts, whatever their nature or origin. Thus, in two brief articles of seventy-eight words, it is proposed that the nations of the world, including the United States, take the most advanced step yet taken in the entire history of the amicable settlement of international disputes.

The brevity and the simplicity of the treaty have staggered diplomats, lawyers, and governments. In the wake of the treaty are many interpretations, exceptions, explanations, and reservations, and there is grave danger of a great proposal, so clearly and intelligibly stated, becoming lost in a jargon of terms and in the canons of logic. Questions have been asked and objections raised. The government of France circulated an alternative draft treaty, which, together with its prior and accompanying diplomatic correspondence, emphasized six points concerning which it entertained certain doubts. These "major con-

siderations" were discussed and explained by Secretary of State Kellogg at the annual dinner of the American Society of International Law on April 28, 1928. It was my privilege to attend this dinner and to hear the Secretary's explanation. After discovering so much misunderstanding over this address, I am convinced that the ear sometimes more accurately conveys the meaning and purpose of the speaker than the eye the purpose of the writer. His statement was perfectly clear on the occasion of its utterance, and its meaning has not changed since its circulation among the governments and its publication over the world. He established the following propositions:

1. *Nothing in the treaty interferes with the right of self-defense.* This right inheres in the sovereignty of each state and is implicit in every treaty. The right not only exists to defend territories from attack or invasion, but the state is the judge of when the right is to be employed. A definition of self-defense would open the way for an unscrupulous state to make its act of aggression fit the definition.

2. *There is no inconsistency between the authorization of war by the League Covenant and by the anti-war treaty.* While the Covenant may properly be considered to authorize war, it does not command it, and the authorization becomes effective only through acceptance by a state. The argument seems to be that the state, under the Covenant, is free to go to war or to remain at peace. Mr. Kellogg does not suggest it, but it is possible that the anti-war treaty may operate as a wholesome restraint on states when considering their course in the case of wars authorized by the League.

3. *Positive obligations to go to war under the Locarno treaties are not inconsistent with the terms of the Paris pact.* Such positive obligation attaches only after one of the parties has resorted to war in violation of its pledges. Adherence to this treaty by the Locarno signatories would

be a double assurance against recourse to arms. A violation of the Locarno treaty through resorting to war is also a breach of the anti-war treaty on the part of a party to both, and operates as a release from both for an aggrieved or affected state.

4. *Treaties which guarantee neutrality are not in contravention of the Kellogg-Briand pact.* States whose neutrality is guaranteed should easily adhere to the treaty. A party to the anti-war treaty attacking the neutralized state would be violating the treaty, and the guaranteeing state would thus be released from the obligations of the agreement. Where the neutralized state is attacked by a non-treaty state, the guaranteeing state, party to the anti-war treaty, is free to proceed against the aggressor, as the treaty does not apply to this situation.

5. *If one party to the treaty resorts to war in violation of its terms, the other parties are released automatically from their obligations to the treaty-breaking state.*

6. *The world-wide application of the treaty is not sacrificed by negotiation and signature by the leading powers.* Adequate provision is made for the adhesion of other powers. There are positive advantages which will flow from an early effectiveness of the treaty, while positive disadvantages would result from delay. Moreover, a treaty acceptable to the six leading powers will probably receive the approval of the other states. Even in the absence of universal acceptance, such a treaty in force between the powers may prevent a second world conflict.

The German Minister of Foreign Affairs, Dr. Gustav Stresemann, in a communication under the date of April 27, 1928, declared that "Respect for the obligations arising from the Covenant of the League of Nations and the Rhine [Locarno] pact must in the opinion of the German government remain inviolable." But far from conflicting with the anti-war treaty, the German Government believed "that the binding obligation not to use war as an instru-

ment of national policy could only serve to strengthen the fundamental idea of the Covenant of the League of Nations and the Rhine pact."

On May 19, 1928, Sir Austen Chamberlain accepted the explanations of Mr. Kellogg as regards the questions of self-defense, relations with treaty-breaking states, and universality. He also accepted the explanation respecting the Covenant of the League and the Treaties of Locarno, but pointed out expressly the inability of his government to enter into a treaty which would prevent the parties to the League Covenant or the Locarno treaties from fulfilling their obligations. The sole purpose of these pacts, as in the case of the pact proposed, was to renounce war as an instrument of national policy. Because there is no antagonism between them, the British Government had accepted them. The Locarno and League peace arrangements, however, not only have the purpose to renounce but provide certain sanctions for a breach of their obligations. The existing treaties and the new pact would therefore conceivably clash, unless it is expressly understood that a nation is released from its obligations under it when attacked by one of the contracting parties. The British Government also pointed out that its interests in certain regions of the world were so great and so vital that its freedom of action with respect to their welfare and integrity cannot be prejudiced by a new treaty. The United States, he said, has comparable interests, the disregard of which would be regarded as an unfriendly act. With these explanations and interpretations, the British Government accepted the invitation to participate in the conclusion of the treaty.

On July 14, 1928, M. Briand accepted the invitation to participate in the conclusion of the treaty, with the express understanding (1) that the right of self-defense is not compromised or restrained; (2) that obligations under other treaties having the same object but providing for sanctions, such as the League Covenant, the Locarno treaties,

and the treaties of neutrality, are not prohibited; (3) that all obligations under the treaty cease to be binding in respect of a treaty-breaking state; and (4) that the adhesion of all states be invited.

The attitude of the Soviet Government is disclosed in a note signed by M. Litvinov on August 31, 1928, in reply to an invitation to sign the pact. After pointing out the failure of the powers to invite the Soviet Government to participate in the preliminary negotiations and in the drafting of the pact, certain objections to the text were raised. The first objection was the absence of any obligation to disarm. The proposal of the Soviet delegation to the Preparatory Commission on Disarmament for complete and universal disarmament was cited as the only effective guaranty of universal peace. The second objection concerned the alleged inadequacy and lack of precision of the very formula for the prohibition of war. War should be forbidden, it was contended, as an instrument of national policy or for any other purpose. There should be a ban, it was argued, not alone on the legal state of war as the result of a declaration, but on acts of war and all forms of military operations, such as blockades and the occupation of foreign territory. Russia and China are suffering from such acts of war, it was said, and yet they are passed over in silence. The rupture of diplomatic relations and the refusal to enter into relations with a friendly state were cited as other unfriendly modes of settlement which should be displaced by the "pacific means" proposed in the second article. In the third place, the Soviet Government objected to several reservations which in its opinion had the object of suspending in advance any appearance of obligation toward the cause of peace. What regions of the world left unspecified by Great Britain were meant? Where does England's freedom of action begin and end? The British regional reservation was regarded as an invitation to other parties to except certain regions, perhaps unnamed, until

the exceptions might apply to all parts of the world. It was also charged that this was an attempt to use the pact "as an instrument of Imperialistic policy." Nevertheless, the Soviet Government indicated its willingness to sign the pact.

Opposition to the text of the treaty, and especially to the reservations, developed in certain public discussions in the United States. The statement most widely discussed was that of Professor E. M. Borchard of Yale University. He declared at the Williamstown Institute of Politics that the British and French reservations do not renounce or outlaw war but in fact sanction the forms of conflict mentioned in the exceptions, hitherto accepted by jurists as facts but not declared to be legal in the sense of being just. Such wars embraced in the reservations, he asserted, include the wars of self-defense with the individual nation as the sole judge of the meaning of the term and the circumstances requiring its application; also wars under the League Covenant, the Locarno pacts, and the French treaties of alliance; and wars in the regions of Great Britain's special and vital interests. This criticism has caused much anxiety among friends of the pact, and is worthy of some comment. In the first place, it is to be observed that the habit of making reservations is more American than European. Having exercised this right so much ourselves, we can only give the reservations of the European states a respectful hearing and, in view of our championing the pact, the benefit of any reasonable doubt. Second, they are, after all, only reservations of interpretation and not amendments. If they are unjust, unwise, or calculated to legitimize certain forms of conflict, they can the more easily be renounced as interpretations and declarations rather than as amendments. The contention of Mr. Borchard that they are as much a part of the treaty as if they had been written into the first article is hardly a valid one. Third, the reservations are necessary to secure

agreement to the pact. Without the ratification of France, England, and Germany, it would be as if no pact had been negotiated. The argument of Mr. Hamilton as to the Bill of Rights comes to mind. Why, said he, by amendment, forbid the Congress to do that which it is not expressly authorized to do? Logically, Mr. Hamilton was right. But Madison took the position that safeguards for the individual, while not absolutely essential, would do no harm and would secure support for the Constitution. That Mr. Borchard's contentions are sound from the standpoint of logic and law is open to serious question. Granting that they are sound, the greater good lies in accepting the interpretations, for the good of the treaty will overbalance the bad of the reservations. Furthermore, the exceptions contained in the reservations concern the operation of sanctions which in the main grow out of instruments for the maintenance of peace. This is clearly true in the case of the Covenant and the pacts of Locarno. The French treaties of alliance may involve a selfish interest so far as France is concerned. They do, however, aim to protect the integrity and independence of the states of the "Little Entente," much as the United States, through conventional and *de facto* arrangements, aims to preserve the independence of certain Latin-American states. In the case of the regional interests of Great Britain, often attacked as "imperialism," it is only fair to point to the order maintained in the troubled and backward regions of the world—a measure of control which doubtless aids Great Britain but nevertheless is necessary on account of the failure of any other country to assume the burden. Great Britain will insist on having some of the benefits of her maintenance of order as long as she has to pay the bills. Moreover, while wars of self-defense may appear to be legalized, it is legitimation in its least objectionable form. On the other hand, the definite renunciation of other kinds of wars, which is the main object of the treaty, must be borne stead-

ily in mind. Finally, it may be recalled that all great progressive public measures, domestic and international, have been charged with such "legal" and "constitutional" difficulties as would impair their usefulness. Each must run the gamut of objection. It was argued before the Supreme Court that the Eighteenth Amendment was "unconstitutional." The pact should not be lost under the weight of ponderous legal discussion. Nor should reservations in the form of interpretations deter its ratification. The people appear to want a written and formal renunciation of war. We must take what we can get now. The pact, through its sheer merit, will survive legal difficulties and the so-called neutralizing exceptions.

Certain faults of the treaty may be frankly recognized. The first objection is the absence of machinery for settling disputes which have previously been settled by war. The absence of machinery and of sanctions is attacked strenuously by some, just as the limited recognition of sanctions through the reservations is opposed by Mr. Borchard. There is, however, much peace machinery which may be used. Additional machinery, if needed, may be set up. But there has never been an express renunciation of war. To provide and define sanctions would be to consume the time and energy of the present movement in a discussion of the means rather than the end. It is better to confine the treaty to that which the nations will sign. The pact is not essentially a constitutional organization to prevent war. It is a declaration of independence of war; and as a statement of the aims of the peoples of the world, as a guide to their servants and governments, it is long overdue. In the language of M. Briand: "Peace is proclaimed: it is well, it is much. But it still remains necessary to organize it. In the solution of difficulties, right and not might must prevail. That is to be the work of tomorrow."

Another objection, voiced in the United States, is that recognition of the sanctions of the League through the

reservations will involve involuntary support of its sanctions by the United States. A breach of the Covenant may become a breach of the pact and thus involve us against our will. Mr. Kellogg has made the point that war under the Covenant is only authorized and not demanded in the case of League members. Clearly, in the light of this voluntary act of a member state, its authorization would not involve a non-member. On the other hand, the spirit and letter of the pact may restrain the powers from resorting too suddenly to the sanctions complained of. It may operate to limit rather than to extend the use of sanctions.

What are the positive advantages of the pact? In the first place, it is so clearly and simply stated that he who runs may read and he who reflects may understand. There is large and legitimate room for misunderstanding of the Covenant of the League of Nations. The simplicity of the pact has a tremendous advantage for the people of the world, who after all have to fight the wars, pay for them, and suffer the inevitable consequences of conflict.

A second positive advantage lies in the fact that it is a *renunciation* rather than an *outlawry*. The latter is an admission of existing legality, and is, because of its legal implications, a more limited means of striking at war. The former is an effort to cast war as a public act into the outer darkness. The world may be compelled to retain certain manifestations of hostile tendencies, but chooses first to renounce, and then to reduce the remaining hostile modes of redress. This is a rifle aim at the heart, and not a shotgun aim at the hand or the foot. Said Briand: "It is a direct blow at the institution of war, even to its very vitals. It is no longer a question of a defensive organization against the scourge, but of attacking the evil at the root itself." We have formerly marshalled our lines of defense against offensive war. We have now marshalled the offensive forces of peace against offensive war, and against illegitimate modes of defense.

A third advantage is that war is renounced as a policy and not only as a legal process. It is also renounced as an instrument of *national* policy. This is frank recognition that the greatest danger to international peace lies in the field of policy rather than in the field of law or administration. Laws have a certain rigidity and continuity because of their definiteness and their sanction. Administration becomes formalized through practice. Policy is from its very nature subject to constant mutation, and is consequently not subject to the restraints and the limits of the law. It is both strong and weak because it is indefinite and subject to repeated change. The nations are, indeed, renouncing as a policy something that they have been unable to outlaw. The problem is attacked in its vulnerable and dangerous field. We have for a long time had a *law of peace*. The way is now opened for a *politics of peace*. "For the first time," declared Briand, on the occasion of the signing of the pact, "in the face of the whole world, through a solemn covenant, involving the honor of great nations that all have behind them a heavy past of political conflicts, war is renounced unreservedly as an instrument of national policy, that is to say, in its most specific and dreaded form: selfish and wilful war."

A fourth advantage lies in the fact that for once in international relations, a moral and a legal obligation have been made to coincide. There is not only a moral obligation to abstain from hostile modes of redress or of injury but a legal obligation as well. There is not only a moral right to be secure from unprovoked attack but also a legal one. Again, in the words of Briand, "Considered of yore as of divine right and having remained in international ethics as an attribute of sovereignty, that form of war, selfish and wilful, becomes at last juridically devoid of what constituted its most serious danger—its legitimacy." Ethics and law must go hand in hand, or one is an empty abstraction and the other a mere form.

A fifth advantage is the absence of the usual exceptions which have nullified the effectiveness of past understandings. It is true that certain exceptions are recognized. But the old terms of national honor, sovereignty, independence, jurisdiction, integrity, and other covering terms which could be made to include conveniently anything any nation was willing to fight for, have been left out. The old method of devitalizing treaties of peace and arbitration has happily been discarded in this case. Under the Locarno and the League and neutrality pacts, the member states have at least agreed to something, and jointly. Under the old covering terms they agreed to nothing. An attempt to define exceptions merely opens the door, in the language of Mr. Kellogg, to an attempt to fit a nation's case into an excepted category. If no definition is attempted, that case is made all the more difficult and the judgment of society will be the more severe.

Finally, the treaty is comprehensive enough to include and to discourage war, not alone as a means of inflicting an injury but also as a means of redressing one. The former has long been regarded as immoral, and no state professes guilt. But there has been too free and frequent a use of war as a means of satisfaction and punishment. War must in the long run be renounced even by nations which have just cause for complaint. The pact has the great merit of placing war in the background as a remedial measure.

The treaty, as I read and understand it, is a solemn charge upon the foreign departments to prevent conflicts from getting to the stage of war. It discourages the notion that disturbances in the troubled regions of the world must be met by force rather than through negotiation. And it enjoins on the part of the greater nations the duty to negotiate until a friendly settlement is reached rather than until the agents of the state can no longer agree.

The spirit and the effect of the Pact of Paris is significantly set forth by M. Briand in these memorable words:

> Thus shall war, as a means of arbitrary and selfish action, no longer be deemed lawful. Thus its threat shall no longer hang over the economic, political, and social life of the peoples. Thus shall the smaller nations henceforth enjoy real independence in international discussions. Freed from the old bondage the nations that have signed the new contract will gradually forsake the habit of associating the idea of national prestige and national interest with the idea of force. And this single psychological fact will be not the least important factor in the evolution that is needed to lead to a regular stabilization of peace.

The Senate of the United States has ratified the anti-war treaty by the unprecedented vote of 85 to 1. Every reasonable effort should be made to develop a public opinion which will not only induce governments to ratify the treaty, but will lead them, in times of crises, to renounce war and to seek pacific means of settlement, by deed as well as by word.

PART III

THE TREND TODAY

CHAPTER XXXI

NEW FUNCTIONS OF THE STATE

It seems clear that the state, under modern conditions, must undertake a number of functions not intended by those who originally would have held it to the performance only of the strictly "necessary" functions. New needs arise with new generations. Governments must deal with them or yield to a system which will do so. Social and economic life grows increasingly complicated, involved, and interdependent. Many problems follow in its wake, such as the prevention of abuses and of injustices. Moreover, social and economic conditions of today are not the ones of yesterday. More and more problems rest upon the state for solution. No other organ can deal with them. The state can no longer be indifferent to the major interests of society, yet in the exercise of its new functions it should not become too powerful. It has been active in preventing certain abuses, and has also undertaken to render positive services in the social and economic sphere.

In this chapter we consider in a general way certain new functions of the state, and in subsequent chapters new functions being exercised in certain important special fields.

A. *The passing of "laissez faire."*—The old doctrine of *laissez faire* or unlimited competition meant the nonintervention of the state in economic matters. Business must set its own pace and be governed by the usual economic laws, such as the laws of supply and demand. The unrestrained operation of private interests prevented much consideration of the public interest. The new sphere of the state in these matters has been both positive and negative. It became clear that great improvements, private in ownership but essential to the public interest, could not be constructed without the aid and the active support of the gov-

ernment. Some governments found it to their advantage to subsidize their shipping lines. The great network of railways in the United States could not have been built without the gift of public lands and without special government inducements. The United States has found it necessary to build the Panama Canal, not only for purposes of defense but for the sake of its economic value. Artificial waterways must be built by governments and must be operated and regulated by them. The great system of highways and highway construction has been taken over by the state. The state furthermore has given financial and other aid to many industrial enterprises and has protected them, through a tariff, from unlimited competition.

The state has found it necessary also to restrain, in the public interest, the monopolistic acts of individuals and associations. A corporation, with vast resources and large capital, could virtually control the raw materials supply, the production, and the market prices of essential commodities. Universal use makes the demand for such commodities. An uncontrolled monopoly could easily cause intolerable prices to be charged. Combinations could easily drive from business those who did not conform with demands from above. Systems of transportation could give preferential treatment through a system of rebates. Understandings between large transportation and producing systems could paralyze the smaller producer and shipper.

The state has had to arrange for the inspection of foodstuffs to prevent abuse and fraud. The old doctrine of *caveat emptor* can no longer apply in the modern age. If our wants are simple, the processes of making and supplying them are complicated nevertheless. The government has undertaken to supervise for the purchaser the manufacture of things he is not in a position to judge for himself.

B. *The new social sphere of government.*—The state has found it necessary to promote social justice and prog-

ress and to restrain social abuses. Just as private property, private industry, and economic life have been made subject to a certain restraint and regulation, so the private and public social conduct has been regulated by the state.

At first this was not so. Social service was regarded as the business of individuals or of churches. Insanity, feeble-mindedness, blindness, and deafness were regarded as conditions of the unfortunate, to be ameliorated by the friends, relatives, or religious orders of the sufferers. The prevention of the spread of disease was not regarded as the sphere of the state. Such state interference would have been regarded as an invasion of the rights of the individual. State poor relief was often honeycombed with graft and hampered by red tape. Illiteracy was the misfortune of the state, but not its responsibility. The criminal, while punished for his conduct, was not "salvaged for society." Sentenced to prison for a term of years meant sentenced to a life of social ostracism after release.

With the complexity of social life in the new industrial and economic age, laxity on the part of the individual in matters of health, morals, and crime now means positive state interference and state regulation. The state has inaugurated a program for social relief by the reduction of poverty and by public education.

C. *The promotion of business and commerce.*—The state must, in some cases, aid its means of production and distribution for the public interest. The United States Government conducts extensive research for industry and commerce through special bureaus like, for example, the Bureau of Foreign and Domestic Commerce, which provides an information service for the benefit of American trade both at home and abroad. Commercial and industrial legislation is a proper and important sphere of the state, and there is hardly a form of commerce or industry which does not have an appropriate national or state bureau to minister to its needs.

D. *Regulation of industry and commerce.*—The government, as the silent partner in great businesses, must not only aid industry and commerce but must also regulate all large business in the interest of society. Businesses are in the main divided into those more and those less concerned with the public interest. Those in the first classification are subject to increasing regulation. Those in the second are regulated only as they interfere with the rights of society. The government in its regulatory rôle of protector has in mind the interests of the consumer, the producer, and the investor. The consuming public is the greater part of society. Almost every consumer is also a producer of some object of wealth. Their interests therefore cross. A citizen can easily be an individualist with regard to the object which he helps to produce and a collectivist with regard to everything he consumes. On the other hand, as consumer or producer, he sometimes needs the aid of the state. The consumer is no longer aided by the law of supply and demand. He cannot know the source of production nor can he control the price. If he must have a commodity, he must pay the price which is charged. The buyer must have protection today against overcharge and fraud. The producer also wants protection against monopolies and against unfairness on the part of rivals. Only the state can give this. The government also seeks to aid the investor against fraud in the purchase and sale of securities. His money is invested for the use of others, and as such is doing a social good. He is entitled to at least a margin of safety and a fair return. Sometimes this solicitude for consumer, producer, and investor has gone too far. But few would do without it, and its objective is the good of all.

Under the Federal Constitution, Congress may regulate interstate and foreign commerce. The railways are public utilities, and therefore subject to regulation of the several states with respect to intrastate commerce. The national

government, in its regulation of the railways, has sought to restrain rates within a "reasonable" scale. This applies especially to the products of the farm. It has sought to make available to all shippers the railway facilities of the country, without discrimination. More latterly, it has sought so to aid the railways that they may better discharge their important functions. Railroad history in the United States has been filled with discriminations as to rates and facilities, in favor of some shippers and against others. To deal with these injustices, all public carriers are forbidden to make or give any undue or unreasonable preference or advantage to any patron. The Interstate Commerce Commission is charged with the investigation of rates, the consideration of complaints of shippers, and the determination of the fact of preferences or discriminations. The Commission decides the issue between the shipper and the railway, and may make rules in keeping with the statutes which will correct the evil. This Commission must allow a rate which will yield a good wage, a system which will give good service and a fair return. On the other hand, it must allow one which will make possible the exchange of commodities, and the transportation of necessities, and will, if need be, stimulate trade. It is always between the two fires of the railway employee, the owner, and the investor, on the one hand, and the traveler, the shipper, and the consumer, on the other. The Commission also passes on questions of railway consolidation. During the war the Government of the United States found it necessary to take over the railroads. But government operation of the railways has not impressed itself on the American people as desirable except during such a national emergency.

Just as the government has regulated commerce, so it has found it necessary to regulate trade. First came government regulation of the market place, in spite of objections to government interference. Opposition to trusts and

combinations soon took definite form. They were regarded as the enemies of society. The Sherman Act of 1890 forbids contracts and combinations in restraint of trade. Injunctions may be issued to prevent such abuses; injured parties may ask for threefold damages in compensation for losses; and property circulated in interstate commerce by such combinations may be seized and condemned. The Webb Amendment of 1918 permits combinations which would restrict export competition. The Agricultural Exemption Act of 1922 allows farmers and dairymen to form associations for marketing their products. The Secretary of Agriculture may order them to cease monopolistic activities. Later legislation set up government bureaus for the publishing of information with respect to trusts and corporations. This had a good influence. Corporations seek investors from the consuming public to prove their interest in the public and its opinions. The Clayton Act of 1914 has more clearly defined abuses under the law. The Federal Trade Commission, established in 1914, enforces federal trade regulations and hastens slow judicial remedies. It seeks not only to repair wrongs which have been done but to prevent future wrongs. This administrative body has a vast authority, too extensive to be detailed here. It works co-operatively, and has been able to adjust the matter of trade regulation better than was possible before its existence.

E. *The regulation of public utilities.*—The railway problem, coming under the heading of interstate commerce, is at once a national and state concern in the United States. The regulation of the railways in a state, together with that of other business affected with a public interest, is the heart of the public utility problem. Public utilities were first unrestrictedly operated by the companies. Businesses which purvey necessities or comforts without any restraint will grow selfish. Rates were too high, and discriminations and abuses were practiced. Although regulation by the

state legislatures led to abuses in the name of the public interest, such control as was afforded was better than none at all, for the conduct of some of the railways had become intolerable. But the demagogue found an excellent opportunity to interfere with a great and wealthy transportation system. Whims and caprices were voted into law. Politicians seized this opportunity to win favor with their constituents. It soon became clear that the problem was so intricate that the legislature could not deal with it. It was in part a problem for a group of experts, and in part one for men of judicial temperament whose decisions in cases would be not only just but also in keeping with economic interest and economic law. The public utilities could not persuade the legislature to abandon investigation and regulation. But an effort was made to remedy the defects of the legislative attempts. Accordingly, some of the states led in the movement to establish railroad commissions, modelled after the Interstate Commerce Commission. They were given the power to regulate rates. Moreover, they could define and prevent discrimination between shippers. They could examine and control the system of audits and accounts of the railways. They could supervise the safety and adequacy of railway service. They could allow or disallow increases in capitalization and in expansion. While commission regulation has been on the whole a vast improvement, much is yet to be done. Railway lines find themselves subject to federal control and also to the control of the authorities of each state through which they pass. The present tendency is to vest final rate control, in case of conflict, in the Interstate Commerce Commission. Simplicity and efficiency may yet dictate railway regulation exclusively by the national government. While a state would give up its control in one sense, yet it would not suffer from the legislation of other states, and would relieve itself of a difficult problem.

The regulation of railways by the state led to a similar

regulation of other public utilities, including telephone and telegraph companies, electric light and power companies, gas companies, street railway lines, water companies, express companies, and warehouses. These businesses are natural monopolies, and the public is often made to suffer from the lack of competition between rival systems. Clearly, where the advantage of a monopoly is allowed, regulation in the interest of the consuming public should be the order of the day. Local utilities are regulated through the franchise, which is a contract between the local government unit and the company concerned, authorizing this utility to carry on business under certain conditions. In the main, regulation is in the hands of the state public service commissions. Like the railway commissions, they deal with questions of service, rates, and capitalization. They supervise the business of the utilities in the public interest. The members constituting the commission are charged with the judicial-administrative-legislative function of deciding disputes, making regulations, and enforcing them. In addition to the members, there is a technical staff composed of engineers, clerks, and accountants for gathering and sifting evidence and making constructive reports.

The commission attempts to secure justice for the consuming public, who make the demand and pay the bills. Clearly they are entitled to prompt, efficient service at a minimum cost. In the public interest, large profit should not enter into the public utility business. Often it seems that the claims of the small consumer are disregarded in the larger business and policy considerations of the commissions. When thousands complain and only one offends, the offense may be overestimated and the good work of the company overlooked. It is in the public interest that a few of the consumers should not be able to take advantage of the utility at the expense of the others. The commission should keep steadily in mind the interest of the largest

body of people. That means service and a fair rate. It does not mean unbusinesslike interference by the consumer with the utility. It is good business discipline to shut off the water, gas, or electricity of the consumer who neglects or refuses to pay his bills. The public nature of the business does not open it to abuses. The commission also undertakes to protect the public utility corporation, which is entitled to protection against arbitrary and unreasonable legislation and to a rate which will make possible good service. Public service commissions also protect investors who advance capital to make possible the original construction, the improvements, and the operation of public utilities. They do not invest for speculative purposes and large profits, but only to realize a reasonable return on safe investments. The commission may not guarantee safe and certain conditions of investment in public utility securities, but it may fix a reasonable rate. In determining the rate, a fair interest on money invested must be allowed for.

The commission system of regulation is far superior to unrestricted operation, and to legislative control. It is also preferred to government ownership of public utilities by most of the people of the United States. Under the old systems the companies maintained expensive lobbies at the state capitals and often influenced legislatures by political pressure or by financial considerations. Now the utility company presents its case to the commission, as does the complainant, and the matter is generally settled on its merits. While the commissions cost money, they justify themselves through their guaranty of good service and fair rates. The money formerly spent in lobbying was always paid finally by the consumer. Not only is this expense saved for the people, but one phase of political corruption has come to an end.

The greatest of all experiments in the government regulation of social welfare is prohibition. And the intense partisanship toward the justice and the success of the

American liquor laws probably obscures some of the deeper aspects of this question even in the minds of the most competent observers. If we assume that the state has the right to regulate any behavior which is likely to entail injury to many citizens, we cannot doubt that, in principle at least, anti-liquor legislation is well founded. The storm center in the American controversy does not lie here. It is to be found rather in the question of ways and means of forestalling the social injuries of commercialized alcoholism. Many ardent supporters of the prohibition principle readily grant the unwisdom of contemporary methods. No other governmental program has ever illustrated so richly as prohibition the indirect interdependence of business, individual rights, economic forces, and philosophies of life.

As interdependence grows, parallel with the increase of interrelations, older modes of administration prove inadequate. So new varieties must be invented. Nowhere has this been more conspicuous than in the relations among states of our Union. We may cite two clear instances here. One is the Interstate Commerce Commission, and the other is the New York Port Authority. The former was called into being as a result of the multitude of conflicts among the states, on the one hand, and between states and the federal government, on the other, in matters involved in transporting goods from one part of our country to another. Not only were railroad rates and regulations leading to inextricable confusion as well as injustice, but also innumerable laws affecting the manufacture of goods and the laborers employed in their making were giving rise to so many novel perplexities that some new method of dealing with them had to be adopted.

So, too, with the problems arising around New York Harbor. There three authorities had three different jurisdictions. The federal government controlled the harbor itself, while New York State controlled its own shores

abutting on the harbor and New Jersey did likewise. The clash of state, municipal, and national interests finally reached an impasse. What, for instance, could be more absurd than the situation which continued down to a few years ago: the largest city in the world unconnected with its westward mainland by bridges and linked to it by only two wholly inadequate privately owned and operated tunnels! These grave obstacles to the proper flow of goods and to population had at length to be surmounted quickly. Old instruments and bodies failed; so Congress created in the Port Authority an agency which has been called by its enemies, not without some warrant, a super-state, which now rules the harbor district with great power and efficiency.

We may expect similar necessities to arise elsewhere and to be similarly disposed of. For example, it may well happen that the vexed problem of the Colorado River and the Boulder Dam can be cleared up only by establishing a Colorado Authority. This has been proposed and ably argued by R. L. Olson.[1] Here we have one of the worst entanglements of powerful interests in our national history. Colorado, Nevada, Wyoming, Utah, California, New Mexico, and Arizona are all deeply concerned in what happens to the Colorado waters and to the river level. Each state is concerned in part because of the actual or the supposed effect of various projects on the water available for irrigating farm lands and also in part because of hydroelectric developments that might be helped by some projects and hampered by others. Over and above all these interests are those of the Federal Government and also those of Mexico, through whose territory the stream flows for a little way. How hard it has been to reconcile or to harmonize all these conflicting wishes and needs can be all too plainly read in the prolonged quarrels over Boulder Dam.

[1] *The Colorado River Compact,* Los Angeles, 1926.

In the approach toward an ordered world many experiments must be tried and many failures must result. But such is the path of progress. The sole danger lies in refusal to recognize that an experiment has failed and to insist upon following a course blindly after its futility has been demonstrated. The future is an uncharted sea, and it must occasionally appear that even hardy voyageurs sometimes find it the part of wisdom to retrace a part of their course.

CHAPTER XXXII

THE GOVERNMENT AND AGRICULTURE

The government of the United States has, in the main, been a compromise between the interests of the industrial and the agricultural classes. The *Federalist* urged that all classes would find representation through the merchants, the landed interests, and the learned professions. The mercantile and agrarian interests would be opposed to each other, and the professional classes would resolve conflicts between them. This prophecy was fulfilled. The mercantile classes probably had more to do with the active drafting of the Constitution. But the agrarians organized a political party and captured the government from the Federalists. The traditional political doctrines in this country come from Hamilton, the representative of the financial and industrial interests, and from Jefferson, the great agrarian. These conflicting party philosophies are each as sound today as then.

This is the industrial era. Doubtless agriculture has seen its day of political domination in the United States. Organized business rather than organized agriculture seems to influence and direct the course of government. Yet agriculture will always remain the basic interest, although not the dominant one. But modern agriculture has changed with modern industry. The farmer is not the individualist of years gone by, when government was looked upon as a sort of necessary evil. He led a self-sufficient life. Politically he was a problem. Not directly seeking government aid, he did not cater to parties, in or out of power. He was his own master. The necessities of life, such as food and clothing, were made on the farm. Farm labor was performed by him and his family and by "hired hands." The work was arduous and the hours were long. There were few advantages for the farmer and his

family. While a few aspired to political and professional life, most of them settled in their communities, with no more than a village school training. Poverty, hardship, and disease was often the farmer's lot. Many men high in the councils of state, nation, and business speak with eloquence of the "days gone by," when they learned their lessons by candlelight, and worked long hours in the field. But such men do not themselves return to the candlelight. Electricity seems better. Moreover, they no longer care for the stern discipline of the fourteen-hour agricultural day, but prefer the executive's easy chair, the lounge at the club, the ease of the golf course. The blessing of the century is the emancipation of rural folk from the rigor of the farm.

Today the children of the farm are carried to good schools in public busses over paved roads. They, like other children, must attend public school for a certain length of time. Formerly they were looked upon as contributing to the work of the land. Given an education, most of the children of the farm go into other occupations; there is little to attract them to farming, as families there tend to be large, and farmers have little land and almost no capital. The farm wife does not lead her former life of drudgery. Housekeeping appliances and modern conveniences have made her way relatively easy. It is well. The tragedy is that so many American women have had to mother many children, keep house, prepare meals for the family and the hired hands, and do the thousand things which were required. One of the greatest evils of frontier development was the unreasonable hardship endured by the pioneer women, who carried on under circumstances and conditions almost intolerable but with courage and fortitude seldom known in the annals of history. I do not deplore the virtues it brought out in them. I do regret the injustice and the tyrannies which held them in an unending cycle of work with little time for mental or spiritual development except through "good works."

The farmer of today finds life almost as complex as the business man. He is no longer sole producer of his necessities. He grows and reaps his crop, and buys his articles of clothing and most of his food from others. He has become something of a specialist. He has modern machinery at his disposal, and a few men may now perform the work of many "hired hands." He co-operates with growers of the same product in selling it on the markets, national and international. His market conditions are a reflex of world conditions. He is no longer the man apart but an integral feature of social, economic, and political life. His economic condition will in the last analysis affect all.

The changing condition of agricultural life has called for an increasing solicitude for agriculture on the part of the government. Scientific information with respect to animal and plant diseases, soil conditions, and fertilization must be furnished by men who are experts. The business of marketing must be undertaken co-operatively, and sometimes with government assistance. The government must help the farmer finance his operations if he is unable to do so through local financial connections. The government must be his means of protection against unfair freight rates, irregular transportation services, and against purchasers and agents who would take advantage of him.

The agriculturalist has been able to impress the need of aid and service on the governments of the states and the nation. The pabulum of the politician as to the dignity of tilling the soil is listened to with a shrug, but the "dirt farmer" judges by the results. I can only suggest the manifold agricultural services performed by the government. The federal Department of Agriculture is essentially a technical-service department. Scientific men are in charge of its activities, and experts alone are employed to carry on experimentation. This Department has a number of bureaus and divisions, organized according to function,

which render scientific service of the greatest value. These services extend to the study of soils, crops, pests, markets, and farm administration. Lecturers travel through the agricultural districts, giving demonstrations of agricultural experiments. The active aid of the government is given in the prevention of animal and plant diseases, plagues, and epidemics.

The solicitude of the government also extends to agricultural credit. This phase of agricultural life is far from ideal. But the government has done something. The Federal Farm Loan Board, after a number of constitutional difficulties, has now become the means of financing the farmer in many parts of the United States. While the interest terms are easy, the conditions on which loans are made are very strict and are in keeping with business rather than farm conditions. The government must sometime realize that agricultural credit is one thing and business credit another. A Packers Control Law has been passed, which protects the farmer from unfair charges and services in connection with stockyards and packing-houses. Grain men are protected against like practices in shipping and storing their grain by the Lading and Warehouse Acts. Substitutes for dairy products are taxed so as to prevent too much competition with dairymen. In the matter of the tariff, the products of the farm enjoy a measure of protection, although the chief object of the law is to protect industry. The recent immigration acts have in a sense protected the farmer against new agricultural owners and tenants. Such protection may become an abuse at times, but the advantage is clear in the case of overproduction.

The Great War, among other things, brought on agricultural stimulation. Peace also brought on agricultural depression. Business interests in the United States soon recovered from the strain, but agriculture is still in the throes of a long-term depression. The most recent effort

to deal with agricultural depression took the form of the McNary-Haugen bill. This legislation, while vetoed by President Coolidge, deserves brief examination as an example of the remedy proposed by the agricultural classes and of the objections which have been set forth by the industrial and financial groups. The bill passed the Senate by a vote of 47 to 39, and the House of Representatives by a vote of 214 to 178. The provisions of the bill appear in bold relief in the President's veto message, which was made on February 25, 1927. President Coolidge attacked the principle on which the bill was drawn. He declared that the bill was not framed to aid the farmers as a whole, and was likely to injure rather than to promote the general public welfare. The bill, according to the President, held up the men who grow cotton, corn, rice, swine, tobacco, or wheat and nothing else as ideals of American farming, extending special favors to them, "at the expense of the farmer who has toiled for years to build up a constructive farming enterprise to include a variety of crops and livestock." Governmental price-fixing was said to be "an economic folly from which this country has every right to be spared." The equalizing fee was regarded not as a "tax for purposes of revenue in the accepted sense," but "a tax for the special benefit of particular groups." The bill, far from restricting output, would increase it, and the surplus would demoralize markets, cause foreign competition, and bring about the importation of foreign farm products. The federal board, under the law, was under no legal obligations as to the prices it could charge. Moreover, it would establish an expensive bureau with vast powers not properly under control. The Attorney General supplied the inevitable brief of constitutional objections to the bill. He denied the right of a board to fix prices; declared the method of nomination through the advice of non-political agencies to be an interference with the President's unlimited power of appointment; asserted that the Supreme

Court would probably disallow the legislation; and added that the enforced contribution to an equalization fee would amount to a deprivation of property without due process of law, under the Fifth Amendment to the Constitution.

While this proposed legislation did not answer the agricultural problem, the veto of the measure and the reasons given therefor have not repaired the defect in our system. So far, American political authority has failed to provide for agricultural welfare as it has provided for business welfare. Certainly the same measure of solicitude should be exercised for one as for the other. When will the question of agricultural need be attacked with a view to a definite solution? The contention that any farm legislation must directly benefit all farmers as a class is to insist on a rule for agriculture long abandoned in regard to business. Today we legislate for mercantile interests as bankers, brokers, packers, shippers, operators, and manufacturers, rather than as men of merely general economic interests. The tariff laws protect the makers of special products, and the Executive is given discretionary authority in certain instances to make changes in tariff charges. The banking, revenue, currency, tariff, and commerce laws are explicit.

It is as idle to contend that all agricultural help should be for the general farmer who produces a little of many things as to insist that all commercial and financial legislation should be for the benefit of the keeper of the general store or the small retailer who carries small stocks of many commodities. This contention fails to take into account the growing specialization of the farmer, which, after all, is merely in answer to economic law. Price-fixing, if abused and applied where not needed, may become an economic folly. Should the products of the soil, more basic than the public utilities, be produced at a loss to the farmer, when the state fixes a consumers' rate which operates also as a guaranty for the investor? An "equalizing fee" may be revolting to many people, and perhaps is not

a tax for purposes of revenue. But it was not intended to be such. The Federal Government, denied the right to forbid the issue of circulating notes by state-chartered banks, has taxed such issues, not to yield a revenue, but to make the issues clearly unprofitable. Power and bureaucracy in the farmer's interest are natural results of government organization and aid for business and commerce.

Constitutional and legal difficulties are always summoned to defeat needed legislation by the interests opposed to it. Price-fixing, alleged to be unconstitutional, was a common practice during the war. If prices can be fixed to help defeat the Germans, why can they not be fixed to relieve a large number of suffering farmers? How would the proposed scheme work out in other respects? Does the President make appointments affecting banking, shipping, and commercial interests without consulting these interests? Which have controlled the recent appointments to the staff of the prohibition force—the Anti-Saloon League, or the wishes of the Treasury officials? Do Congressmen leave the President free in the exercise of his constitutional duty to nominate? Interpreting the probable course of the Supreme Court is a favorite indoor sport for those who are opposed to the legislation in question. Predictions of attorneys general do not always indicate the final result. The equalization fee would require a contribution from interested persons who would stand to profit immediately by it. Are such contributions necessarily deprivations of property without due process of law, any more than many forms of government charges and contributions? Many things must for the public good become a social charge. It is difficult to find "direct benefits" in any form of government charge.

I do not urge the enactment of this sort of legislation. But I do wish to point out the utter inadequacy of past efforts to deal with the problem and the futility of many of the arguments made against the efforts of the affected

classes to meet the problem. The farmer will somehow get his credit on easy terms over a long period. It would do the politician some good over a term of years to give at least a minimum heed to his needs.

The state governments also give much attention to the interests of the farmer. Agricultural colleges are maintained, either as parts of a large state university or as separate institutions to train young men for the business of agriculture, to train future teachers and experts, to conduct experiments and research projects, and to carry scientific information to the farmer. "Farm advisers" are maintained under the management of the state agricultural colleges, with the support of the federal and state governments and the local farm bureaus. These county agents organize the farmers of communities into local units. They also give expert information on soil, market, and crop conditions. The advisers have failed to minister seriously to the farmers' scientific needs. Their offices become the means of bringing experts to the locality. But the adviser is rarely himself an expert. He is usually just out of agricultural college, with more enthusiasm than knowledge and judgment. He has helped to develop the farmer's political ability through community organization.

As a class these advisers prefer to agitate for farm legislation rather than to keep up their scientific research. They often become agents of propaganda and influence for their colleges. The state agricultural colleges have in some cases dropped the designation "agricultural" for the more dignified term "state college." Expansion as "cow colleges" is limited. As "state colleges" they may establish departments of engineering, journalism, education, business administration, and even social and cultural study. Money has thus been diverted from the important and first business of agricultural training and research to other branches of study. This means inevitably an inferior training in the new branches which are foreign to the pur-

pose of agricultural training, and a weakening of the work which might be done to much better effect at larger universities in their legitimate fields. Instead of distinction in special fields, there is mediocrity in all.

Back of all the farmers' special woes lies a predicament for which nobody is to blame. It is the result of the inevitable flow of capital to enterprises which promise the highest and the surest profits. For more than one hundred years people with money to invest have been lured by the high returns of the stocks and bonds of manufacturing concerns and corporations engaged in the gathering and marketing of basic raw materials, such as petroleum, iron, copper, and lumber. Likewise the abler workers have been attracted to those employers who could pay the highest wages and at the same time offer the most agreeable working conditions. The farmer has never been able to outbid these rivals in the city and the mill town. So he has seen his farm hands and his own children desert his fields in the everlasting quest for a better livelihood. The outcome has proved tragic. Today, as a result of this natural selection, the American farm has been stripped of its best brain and its best brawn. The basic prosperity of the farmer, in spite of occasional spurts of success during boom periods, has been dropping steadily for more than a generation. It is hardly too much to say, taken as a whole, American farmers and their families live in a world apart from the larger and richer economic life of our cities. And unless some drastic statesmanship can intervene, the odds are heavy in favor of a rapid decline there into cooliedom.

In the newer politics of peace, our government faces a wholly new farm problem. It is not a problem of temporary alleviation through minor readjustments of the tariff or through subsidies or valorization plans. Rather it is the whole novel problem of putting agriculture on a parity with industry. What this involves staggers the imagina-

tion. It means a revolution in farm production methods. It means also a revolution in the technique of distribution. And it means worst of all an inevitable redistribution of farm population on the basis of the productive capacity of regions. Here is not the place to discuss the details of this baffling program. Suffice it to say that we shall have no politics of peace until this larger agrarian crisis shall have been safely passed.

Farmers the world over are to a peculiar degree dependent not only upon one another but also upon many other groups and forces. And hence they must move toward international co-operation, as well as worldwide control of their affairs, especially in order to cope with five major problems: plant diseases, animal diseases, farm pests, the organizing of information about world crop conditions from week to week, and, finally, the organizing of farmers themselves in some scheme to prevent disastrous over-production and to offset regional famines. Space is lacking to describe these five necessities in detail. It is enough to say that no single government on earth can save the world at large from the appalling depredations of insects and other pests, which destroy food at the rate of more than a billion dollars a year, possibly five times that rate. The boll weevil, the Japanese beetle, and the gypsy moth combined injure the world more than the Great War did, if we measure injury in terms of dollars and cents alone. The harm done by over-production of farm crops hurts the world's farmers infinitely more than any adverse legislation ever has; for in glut seasons, when prices collapse, everybody loses. Agrarian internationalism is perhaps the most urgent of all needs in world co-operation today.

CHAPTER XXXIII

THE GOVERNMENT AND LABOR

The interest of government in labor is wide indeed. It involves the relation of labor to ordinary legislation and to ordinary remedial measures, the legal and constitutional position of labor, the relation of labor to the problem of authority, and labor as a part of the social fabric.

In the United States, under the federal system of government, the regulation of labor affairs is chiefly in the hands of the state governments. While there are important diversities among the states, yet in the field of labor legislation, as in other fields of state activity, there has been also a certain uniformity. The first legislation dealt with the hours and conditions of labor. It was realized that the conditions under which men worked in some industries were intolerable. The employers could not change these conditions. It remained for the state to take affirmative action on behalf of the worker. The factory laws were passed to remedy these conditions. It is now necessary for factories to have adequate ventilation, fire protection, and sanitation, and adequate safety provisions. The employer must take definite steps to safeguard the health and safety of his workers. This legislation extends not only to the factory but to sweatshops and home factories. It was also found necessary to limit hours of labor for women and children, and later for men in dangerous industries. Latterly some of the states have limited the hours of all workers in all industries. Inspectors and labor boards are maintained at state expense to enforce the labor laws.

In some of the states, legislation has been passed providing for compensation for accidents. Formerly, injured men relied upon the liability of the employer for compensation in case of accident. But this required proof of negligence, the fixing of damages, and the execution of a judg-

ment. It was a sorry substitute for a salary or wages. Some of the states have passed workmen's compensation acts, which set forth that the employer must provide in part for the support of the injured, no matter what the cause of the injury. Other states, including the state of Washington, have gone into the business of state insurance for injured workmen. Employers there must give the state a sum determined by the number of their employees and the peril of their business; this sum is administered by the state and paid to injured men on the basis of a sliding scale, according to the nature and the permanency of the injury and the extent of their incapacity for work.

The fixing of a wage seems to be as revolting to many Americans as the fixing of prices for commodities. The proposition that a man or woman is entitled to a living wage seems elemental. On this theory, many take the position that a business which cannot pay such a wage involves a social loss. Department stores employed many young women who lived at home and used their wages for "pin money." School superintendents employed local people for school teachers in order to offset the urge to higher salaries. It was economy for the department stores and the school superintendents, but the burden fell on those who had no homes except as they could maintain them on this inferior wage, and on the parents of the girls who "stayed at home." Clearly, competition in human effort should be as important as competition in commodities, and it should be regulated so as not to cause harm to the laborer. Massachusetts, California, and a number of other states have passed laws establishing wage commissions. These boards are empowered to determine what should be a minimum wage. Some have the power to enforce their decisions; others have the mere right to publish the names of firms refusing to conform to the regulations. We have not yet reached the point of determining the worth of labor to the employer in terms of money. Perhaps that is beyond

the sphere of the state. We hope that it may not be necessary. The least thing the state can do is to require that all persons employed shall receive enough to hold body and soul together.

The settlement of labor disputes has been a matter of concern to the state governments. These disputes are settled in increasing number by the voluntary action of the employer and the employees. Compromise is better than open rupture. Labor leaders no longer make a grave issue over matters of small concern. When the voluntary methods fail, the labor leaders resort to weapons of the industrial conflict, such as the strike. Employers may retaliate against unfair treatment by means of the lockout. Where disputes threaten serious consequences, state governments have devised means for state intervention. By means of conciliation, the effort has been made to bring the conflicting parties together to adjust the conflict themselves. By means of arbitration the state has encouraged the reference of the disputes to a board, whose decisions must be regarded as final and binding. In 1920 the state of Kansas established a state industrial court, to which persons engaged in the public utility business, in fuel, food, clothing, mining, and transportation businesses were required to submit their industrial disputes. The act establishing this court was declared unconstitutional.

To what extent does the state owe the individual a right to work? Does the state owe one the opportunity to earn a living? These are questions which have been going through the minds of many working-people in recent years. The British Labor Party answered them affirmatively, but found that they could not guarantee every man a job. The situation they met by a system of doles, which the Royal Commission at length reported to be a grave economic blunder. But the Labor Government did seek to organize the state for the purpose of preventing unemployment and of making enough work to go around. The state govern-

ments have not yet become employment agencies, although they do, through their industrial commissions and labor bureaus, seek to give out employment information.

A current proposal, of considerable promise, is that government projects be planned as a kind of employment buffer, funds and programs being provided to "take up the slack" in the industrial world. This remains to be developed in a practical way.

In a number of states the worker has a preferred position before the law. Carpenters, builders, and mechanics have prior liens on real estate for the collection of wages. These mechanic's liens take precedence of all legal claims except taxes. In actions for debt, the worker's tools are exempted from attachment. In some states, the property of the worker, and his home and furniture, to a certain value, are exempted from legal process. Employers must insure themselves in order to protect the claims of the worker should the employer become insolvent. The worker may now leave work without a part of his wages being held back. Congress has regulated labor conditions in the District of Columbia and on American ships on the high seas. In the latter case, the La Follette Seaman's Act has assured to the seaman on American ships a treatment far superior to that received on foreign lines. Indeed, shipping interests complain that the act has made American shipping a losing venture.

One of the recent constitutional controversies with respect to labor was the decision in *Adkins* v. *Children's Hospital* (261 U.S. 525). This involved a minimum wage act for women and children in the District of Columbia. Congress provided that a board of three members should fix wages for women and children. Fines and imprisonment for violations of the act were stipulated. A children's hospital employed a number of women at a satisfactory wage. A woman was employed as an elevator operator at a wage of $35 per month and two meals a day. It was less

than the minimum wage fixed by the commission. The hospital company would not pay more, and did not wish to risk liability by continuing her employment. Therefore it intended to discharge her. She claimed that the minimum wage law deprived her of her liberty to contract for employment and wages without due process of law, and she sought to enjoin her discharge. The Supreme Court held that the Fifth Amendment guaranteed to the individual the right to contract about his own affairs and that the minimum wage law interfered with this liberty. President Roosevelt observed in his annual message to Congress, December 8, 1908, that the liberty to contract which the courts often sought to protect in defiance of social progress was "often a merely academic 'liberty,' the exercise of which is the negation of real liberty."

The regulation and prevention of child labor has long been a matter of national solicitude on the part of many reformers. The states, empowered to deal with the matter, have either been indifferent or have refused to do so. In 1916, an act of Congress forbade any goods to be transported from one state to another if manufactured in any establishment where child labor under a certain age limit was employed. The Supreme Court, in the case of *Hammer* v. *Dagenhart* (247 U.S. 251), declared that the prohibition of child labor or its limitation in mines or factories must be decided by each state for itself. Congress may regulate commerce, but it cannot exercise the police powers of the states for them. Exclusion of the articles made by child labor from the privilege of interstate commerce is not a regulation of commerce but an invasion of the rights reserved to the states. In 1919 Congress imposed a tax of ten per cent on the net annual income of any person who employs one child or more in a factory or mine in the United States for even a single day. The Supreme Court, in the case of *Bailey* v. *Drexel Furniture Co.* (259 U.S. 20), held that the tax in this case was not one for the pur-

pose of raising revenue but was in the nature of a penalty, "with the characteristics of regulation and punishment." As such the court held it void.

Failing to accomplish their purpose through ordinary legislation, the proponents of the child labor restrictions secured the submission by Congress of an appropriate amendment to the states for ratification. With a very few exceptions, the amendment was uniformly rejected by one or the other or both of the respective state legislative bodies. Only Arkansas, Arizona, California, and Wisconsin ratified. It was felt that the regulation of child labor should still be reserved to the states. The feeling prevails that the national government has invaded the sphere of the states too much already. Then the states have the feeling that they know better than Congress what is best for their children with respect to labor. Also the people have grown tired of so many attempts to amend the Federal Constitution and prefer to allow it to stand as it is for a while. Unfortunately, political and constitutional considerations have prevented the consummation of a far-reaching and really just reform.

Woodrow Wilson intervened actively in an industrial dispute in the interest of labor when the railway brotherhoods threatened to strike in 1916. Mediation had failed, and arbitration was refused by the action of the trainmen. The President felt it his duty to interfere, "not as an arbitrator, but merely as spokesman of the nation, in the interest of justice, indeed, as a friend of both parties, but not as judge, only as the representative of one hundred millions of men, women and children who would pay the price, the incalculable price, of loss and suffering . . . ." Wilson suggested that the eight-hour day be put into effect by the railroads, that a commission be appointed to study its economic and social effects, and that a future settlement satisfactory to both parties be made. The trainmen agreed to this method of settlement, but the railway managers re-

jected it and held out for arbitration. Wilson took the position that while he favored the principle of arbitration, he had no means of enforcing it, and the country faced peril and disaster by one side insisting upon a principle which could not be obtained. Thereupon he called upon Congress, among other things, to establish an eight-hour day as the legal basis of work and wages of railway employees engaged in interstate transportation. He also asked for a commission to investigate and report to Congress on the operation of the law. The law was passed but met with much opposition. Overtime should be paid for at least pro rata. It was claimed that the bill did not shorten hours of labor but in effect increased wages. The law was upheld by a bare majority of the Supreme Court. In this daring intervention, a few months before his election for the second term, Wilson committed the country to the principle of the eight-hour day. It had the "sanction of society." With respect to it he said:

> It seemed to me, in considering the subject-matter of this controversy, that the whole spirit of the time and the preponderant evidence of economic experience spoke for the eight-hour day. It has been adjudged by the thought and experience of recent years a thing upon which society is justified in insisting as in the interest of health, efficiency, contentment, and a general increase of economic vigor.

The intervention of Wilson prevented a strike of carpenters in the shipyards, who had demanded higher wages. He not only refused to see the president of the union of carpenters and joiners but declared it to be their duty to abide by the decisions of the Shipbuilding Wage Adjustment Board, as all other unions engaged in shipbuilding had agreed to do. The views of the President were forcefully expressed as follows:

> No body of men have the moral right in the present circumstances of the nation to strike until every method of adjustment has been tried to the limit. If you do not act on this principle you are undoubtedly giving aid to the enemy, whatever may be your own conscious purpose.

The President also intervened in several threatened strikes, notably the strikes of the bituminous and anthracite coal workers during the year following the war. In all these industrial conflicts he took a liberal but firm position, contending that the settlement of labor disputes should follow orderly processes and should involve no violent measures. In regard to the consequences of the bituminous strike, he declared:

> All interests would be affected alike by a strike of this character, and its victims would not be the rich only, but the poor and the needy as well. It would involve the shutting down of countless industries, and the throwing out of employment of a large part of the workers of the country. . . . . I cannot believe that any right of any American worker needs for its protection the taking of this extraordinary step, and I am convinced that when the time and manner are considered, it constitutes a fundamental attack, which is wrong both morally and legally, upon the rights of society and upon the welfare of our country.

His philosophy of the rights of society as against the rights of a special class in a dispute of this sort is expressed as follows:

> When a movement reaches the point where it appears to involve practically the entire productive capacity of the country with respect to one of the most vital necessities of daily domestic and industrial life . . . . the public interest becomes the paramount consideration. . . . . It is time for plain speaking. These matters with which we now deal touch not only the welfare of a class, but vitally concern the well-being, the comfort, and the very life of all the people. I feel it my duty in the public interest to declare that any attempt to carry out the purposes of this strike and thus to paralyze the industry of the country, with the consequent suffering and distress of all our people, must be considered a grave moral and legal wrong against the government and people of the United States.

Opinions vary as to which is President Wilson's greatest statement of principle or policy. Clearly, there has never been a better statement of the relations which should obtain between labor and capital, and also labor and gov-

ernment, than is found in his seventh annual message to Congress, December 2, 1919. No settled conditions leading to increased production and reduced living costs, he said, could be expected so long as labor and capital were antagonistic instead of partners. Sound thinking and the purpose to serve the interests of all rather than a class must be applied to the problem. Repression would be the seed of revolution. Measures designed to remedy the situation must be constructive, not negative. Congress had already led the way in regulating the hours and conditions of labor.

> It must now help in the difficult task of finding a method that will bring about a genuine democratization of industry, based upon the full recognition of the right of those who work, in whatever rank, to participate in some organic way in every decision which directly affects their welfare.

An examination of the demands of labor involves admission of the justice of many of them. The aims of the worker are thus eloquently set forth:

> The worker demands an adequate wage, sufficient to permit him to live in comfort, unhampered by the fear of poverty and want in his old age. He demands the right to live and the right to work amidst sanitary surroundings, both in home and in workshop, surroundings that develop and do not retard his own health and well-being; and the right to provide for his children's wants in the matter of health and education. In other words, it is his desire to make the conditions of his life and the lives of those dear to him tolerable and easy to bear.

Governments must recognize the right of collective bargaining by laboring men for human objects. "Labor must not be longer treated as a commodity. It must be regarded as the activity of human beings, possessed of deep yearnings and desires." The business man repairs and replenishes his machinery in the interest of efficiency. "No less regard should be paid to the human machine. . . ." It is unthinkable to return to the old standards of wage and industry in employment. They are of the past. While

labor is entitled to an adequate wage, capital should receive a reasonable return on its investment, and is entitled to the protection of the government in every emergency. These elements should not be played against each other, but their mutuality of interest should be expressed and safeguarded. The individual right to strike should be inviolate, and should not be interfered with. "But there is a predominant right, and that is the right of the government to protect all of its people and to assert its power and majesty against the challenge of any class." Arbitration of international disputes, with a view to preventing war, should show the way to industrial peace.

> Surely there must be some method of bringing together in a council of peace and amity these two great interests, out of which will come a happier day of peace and co-operation, a day that will make men more hopeful and enthusiastic in their various tasks; that will make for more comfort and happiness in living and a more tolerable condition among all classes of men.

There is one tendency in American economic life today which bids fair to transform future relations between government and labor. It is the astonishing growth of employee ownership of corporations. As wages and living standards rise, the thriftier workingmen have more savings to invest in profitable enterprises. Today more than 800,000 employees in the United States own about $1,000,000,000 worth of the stocks and bonds of the companies by which they are employed, and even yet only three workers out of every ten have invested thus. The most remarkable instance is that of the American Telephone and Telegraph Company and its affiliated corporations. More than 180,000 of their employees are stockholders, possessing about $86,000,000 worth of such securities. More than three hundred other companies have made special arrangements for selling securities to their employees on terms and conditions more favorable than those granted to the buying public. And it is generally agreed that as prosperity

spreads, more and more workers will acquire partial ownership of the very factories which pay them wages.

Thus we approximate a curious variation of syndicalism, not by way of revolution, but simply through the natural operation of existing business methods within the capitalistic system. And as employee ownership approaches the control of industries, the necessity of government support for labor diminishes apace. The future problem of labor, so far as government is concerned, may narrow to that of the unskilled worker and the farm hand, neither of whom gives any promise as yet of becoming either sufficiently well-to-do or intelligent to become a worker capitalist. Steadily the gulf between capital and labor is narrowing, but perhaps the gulf between the worker capitalist and the lower classes of labor may widen and may reveal complications which will require careful and drastic supervision.

CHAPTER XXXIV

THE NEW POLICE POWER

The doctrine of constitutional law known as the police power is the authority of the state, inherent in its nature, to protect the health, safety, and morals of the people. This right is fundamental. The provisions of the constitutions with respect to the obligation of contracts, the protection of property rights, the due process clause, and the provisions limiting the state governments in the interest of the individual were not intended to interfere with the right of the state to protect its people. The guaranties of the bill of rights are presumed to be preserved to the individual by the government. As against these rights, there have arisen some which must be enforced by the government against the individual. Society is entitled to fair charges for commodities and necessities; to decent and healthful living conditions; to protection against criminals; to the opportunity for individual development; and to the right to trade on terms of equality. These positive rights cannot be bargained away. Indeed, they form, as it were, natural rights of society which it is the first business of the state to enforce. Health, safety, and morals have in a sense taken the place of life, liberty, and property as the objects of state solicitude.

The health of its citizens is universally regarded as the business of the state. State governments extend their sway over a variety of activities. But the state does not attempt to take the place of the specialist or family doctor. Nevertheless the state may and often does undertake preventive measures, leaving to the individual the task of remedial measures. Medical inspection and service is maintained in schools, colleges, and other public institutions. Vaccination must be enforced. Places and regions must be quarantined against the spreading of disease. A state

health bureau is appointed in most of the states to combat epidemics and to help in determining and administering the public health policies. The state boards of medical examiners supervise the admission of candidates to the practice of medicine and surgery. The government must in some cases act positively. It must safeguard the purity of its water supply, and must attend to the matter of correct sewage disposal. It must see to the purity of foods, drugs, and beverages. Clinics are sometimes maintained for those who are unable to pay for hospital service. The federal government has also aided in this work through the pure food laws, the meat inspection laws, and the Food and Drugs Act. The state governments, in the interests of health and safety, may abate nuisances, and may control the practice of the medical and dental professions. In the more restricted sphere of safety, the individual and his property may be carefully regulated in the interest of avoiding danger.

The police power of the state extends to the regulation of the public morals. The state governments have passed laws regulating the social evil. These laws, while often ineffective, are valid and have an excellent purpose. Gambling has been restricted and forbidden. Horse-racing and prize-fighting have been outlawed in some states, and strictly regulated in others. The prevention of the sale of intoxicating liquors by state and local governments has been a common practice, and was held not to be a deprivation of property without due process of law under the Fourteenth Amendment.

The regulation of morals has also been the function of the federal government. By a single stroke of the pen, property in man was abolished, carrying with it a severe economic loss. Through the regulation of interstate commerce, Congress has undertaken to regulate morals. Immigrant women are protected against importation for immoral purposes. The Mann White Slave Act subjects any

persons to fine or imprisonment for transporting any woman or girl in interstate or foreign commerce for immoral purposes. The so-called Lottery Acts forbid the sending of lottery tickets from state to state through the mails or through the regular channels of trade.

National prohibition, as established by the Eighteenth Amendment, is a question of enforcement at the present time. The old issues of personal liberty and individual right and interference with property rights have been swept aside. Whatever the Constitution may provide with respect to these rights, the prohibition amendment is on the same level and is more recent in point of time. The social question of prohibition and the political question of its desirability it puts aside. It illustrates in a striking way how property, used by a dominant few for political purposes, must yield to the axe of either governmental regulation or destruction.

The amendment was immediately attacked. It was claimed that this amendment did not change or improve the existing provisions of the Constitution, and therefore was not a legitimate exercise of the amending power. The Supreme Court held that any change could be made in the Constitution with the exception of reducing the equality of state representation in the Senate of the United States, if done according to the constitutional method. It was charged that the amendment, acting directly upon the rights of individuals, was essentially an exercise of legislative power, and therefore not an amendment within the meaning of the Constitution. The Supreme Court answered that this proposition pointed to what the amendment should or should not be, rather than to what amendments it was constitutionally possible to adopt. It was finally objected that prohibition was a part of the police power which belonged exclusively to the states and which the federal government could not invade, even under the authority of an amendment. It was replied that an unalter-

able system of government was not intended, and that the police power of the states had hitherto been invaded by an amendment to the Constitution. Thus it was settled for all time that moral provisions may be included in the Constitution of the United States.

We still hear objection to the Eighteenth Amendment on natural law grounds. One may have the liberty to drink intoxicating liquor; yet it is hardly one to be protected by the state. Before it became a part of the Constitution, the state had the right, even through ordinary legislation, to forbid the sale of liquors, if that interfered with the public safety, health, or morals. There is a larger right of society to be protected against the political and personal corruption, the crime, the inefficiency, the ill-health, the poverty, and the irresponsibility brought on by the liquor business. Society may decide that, while a man has a right to take a drink, he does not have the right to drive a vehicle while under the influence of liquor, thus almost certainly endangering the public safety. Nor does it do any good merely to punish a wrong act committed owing to liquor. The state has the right to strike at the heart of the business and take the liquor from the driver or make it impossible for him to get the beverage. Even though the personal liberty argument has persisted formidably, the prohibition amendment remains as much a part of the Constitution as any guaranty of individual liberty. Anything can be made legal by putting it into the Constitution. This is a gloomy prospect.

Enforcement is a problem. Perfect enforcement cannot be expected. No law is fully observed, and no law is fully enforced. The Volstead Act places a burden on the government which is new and which covers a wide territory and in certain regions is opposed by a militant majority. The Government of the United States cannot devote all of its energies, resources, and money to the enforcement of a single law. Reasonable people will take full

account of the difficulties facing the enforcement officers. The effectiveness of any statute depends on the respect of the people for it, and upon the integrity of those who enforce it, and both are lacking considerably here. The measure was not forced on the people, as has been charged. It was undoubtedly unduly agitated by a single organization, but the means of pressure open to this organization were open as well to the opponents of the measure. It is also contended that political extinction was threatened all legislators, national and state, who voted against submission and ratification. If this method of amendment results in injustice and unfair representation, it may be changed, or other amending methods may be used. The amendment is here. Doubtless the question of enforcement will always be a difficult one, at least for years to come. But it is a situation we face, unless the amendment is changed.

Some agitate for a change in the Constitution. Is this not folly when forty-six of the forty-eight states voted for ratification, and when three-fourths of the states were already dry by popular vote before the adoption of the amendment? Then some seek a modification of the present enforcement act. This is within the power of Congress, but few would risk the odium attaching to a change at this time. Doubtless the present act must yield to a more reasonable one which will allow of better enforcement. But most of the laws will be in keeping with the spirit of the amendment. Political movements to change the amendment or to modify so as to return to a wet condition are doomed to failure. Governor Smith of New York, if he had been elected President, could have done little, even though elected on a wet platform. The situation and the law prevail as long as the amendment stands. While the Anti-Saloon League has interfered seriously with the business of enforcement, its advice has been followed, and it must share the responsibility of the government for results in the enforcement business.

Perhaps this is as good an example as one might cite of striving toward a better world without paying sufficient attention to the methods employed. If democracy is to succeed public opinion must count, and even the rights of a minority must be respected. Overzealous and fanatical progress toward a goal worthy in itself even when supported by law may not prove to be the ultimate solution.

CHAPTER XXXV

THE NEW POLITICS AND THE SCHOOL

The right of the individual to self-development through education has been fully discussed in the chapter on that subject. Only brief reference to the function of the state in the field of education need be made here. It is now universally recognized that education is the right of the masses, not the privilege of the favored few. In spite of the aristocratic theory of education entertained by some educators, this proposition is true, from the lowest grades to the university. The only test should be ability to profit by advanced instruction and the return which may be made to society in justification of the expenditure on education. When society foots the bill, it has the right to ask something as the return which is to be made. Moreover, education is not the right of the child only, but is coming to be the right of all people, including adults. The education of the child for the future may be carried too far, and the tax-paying, supporting adult in his solicitude for the future may neglect himself. Finally, we have come to realize that education is not static. It must change with the demands of the time and of the people. These considerations have important results. They emphasize the importance of education. They extend its scopè. They increase its cost. So vast is modern education that only the state can cope successfully with the problem as a whole. Then, with the rising level of intelligence and the education of the masses, the necessity for advanced study becomes clear. In a generation the average man will be a college graduate. This distinction will mean less as time passes. Leaders, then, must extend their period of training far beyond the point where they are wont to stop today.

Under the American federal system, the control of education has been left to the states. So basic a state func-

tion should be near to the people rather than far removed. Participation by the people of community and state in the business of education makes for local pride and responsibility. In all the states, elementary and secondary instruction is well provided for, and teachers are trained under the direction of state boards of education. Definite practices of local and state administration and control have been worked out through experience which commend themselves favorably to students of American and comparative systems of education. The American state system affords the necessary opportunity for diversities in educational policies and practice which are healthy for any people. A policy for California might be a poor one for New York or Massachusetts. The state governments also provide higher education in the form of state universities, professional schools, and technical schools. The higher cultural, technical, and professional training has become the business of the state. In maintaining graduate schools and laboratories, state universities recognize the necessity of popular support for research and discovery. Private institutions and foundations are in some particulars better equipped to carry on research activities than state universities. But it is becoming established that the expense of certain definite lines of research is a legitimate charge against state funds.

Of extreme importance to education in a democracy is the expense involved. Educational budgets have increased by leaps and bounds. In the face of a rising tax program, the people of a number of states have set about to trim budgets, educational and otherwise. It is an elemental fact that a government which essays to regulate and control rather than to own and operate factors of production has a limited budget and that it cannot assume expensive social responsibilities beyond a certain point without serious derangement of its economic structure. Charity and social service effort may be so extended that the business of the

state will not be able to stand the drain. There is a line to be drawn somewhere between a tax and confiscation, just as a line must be drawn between a tax and a penalty. When the tax burden makes it unprofitable to own property, to operate factories, or to raise articles on the farm, clearly a form of confiscation exists. Education cannot cost so much that the state must make serious inroads on the property and business of its citizens. While everyone who has the right of suffrage may vote for bond issues, regardless of property ownership, nevertheless the stability of property is essential to the welfare of all, under the only economic system we have any acquaintance with.

A frontal attack on educational expenditures was made by Dr. Henry Pritchett, President of the Carnegie Foundation for the Advancement of Teaching. The American people, he declared, were wasting large sums on the fads and frills of education. Education was being given to many unqualified to profit by it and who had better be at work. Moreover, he charged that school men themselves were responsible for much unnecessary expansion. A tax-weary people were not slow to wield the axe. School budgets were slashed in many states, and school executives found themselves confronted with the task of showing cause why certain expenditures should be made. In some cases the slashes were justified because ambitious executives refused to do the necessary pruning. The legislatures did it for them, often cutting in wrong places. But the lesson was learned. Bond issues for school buildings had been voted with abandon. Education was a magic word, which seemed to unlock the pocketbook of the community. We have learned that there is no magic about education. Its claims, like other social claims, are entitled to their just consideration. They are even entitled to generous treatment. But they cannot become a charge too heavy for the people to bear.

The federal government limits its educational interest

to special cases. It maintains colleges and academies to train officers for the army and navy. It maintains a training school in the Department of State for prospective members of the diplomatic and consular services. The Indian schools and the schools in Alaska and the insular possessions are under federal supervision. One of the proudest achievements of the United States is the school system of the Philippine Islands. Congress has subsidized state institutions to increase the efficiency of military, agricultural, and even mechanical instruction. Congress has also undertaken to aid in the important matter of vocational education, and to train disabled veterans of the World War. The Bureau of Education in the Department of the Interior, presided over by a Commissioner, does not have the right to dictate educational policies in the states. It does conduct research in many educational fields, and also seeks to aid the states in their educational projects. It is an indispensable service bureau.

Shall a federal department of education be organized? The American people are quite clear that the states shall settle their own educational policies. What can the federal government do more than is being done to aid education in the United States? Many persons hold that a national department of education would raise education to the plane it deserves, and that the federal educational organization is bound to suffer a loss of prestige as long as it is merely a bureau in a miscellaneous department. It would, it is claimed, serve rather than control educational interests, in the same manner as the Departments of Commerce, Labor, and Agriculture serve rather than dominate their interests. The business of education carried on by the federal government should be transferred and co-ordinated here. The educational interests of the states, with their many diversities, would find a certain informal unity here, without the fear or fact of control. But quite a section of American public opinion is opposed to this measure. Co-

ordination would be only a mask for influence, and influence would soon become a matter of control. Federal subsidies would obtain state acquiescence with federal policy. Federal influence might be wholly inapplicable to a given state. The people would give up their civic interest and activity in caring for this primary function. Political use of the schools, of the curricula, and of the teaching personnel would be too great a temptation for the politically minded. Local school control, while narrowing in a sense, prevents centralization, and prevents the use of schools for purely political purposes. The school system of a unitary state like France could be made to articulate with the political wishes of a given ministry, so complete is national domination and control. But in the United States, the danger is obviated by a local board for each community. Our traditions, it is claimed, are entirely against such concentration. It is even regarded as unwise to place the schools, "from the kindergarten to the university," under the control of a single state administration. Diversities in school policy, it is contended, are important to our democracy. A federal department of education, it is feared, would interfere with this basic tradition.

Regimentation of school children, of curricula, and of personnel is feared even under state systems of education. While the states have the right to control educational practice and to make educational policy, they do not have the right to make education an exclusive state function. The private school has rendered a large service to this country. It supplies defects which the state system cannot meet. Parents have the right at their own expense to have their children take advantage of forms of instruction not provided by the state. Such people often are the largest taxpayers and make their legitimate contribution to school expenses without calling upon the state to educate their children. This renders a double service to society, since room is released for many who might be crowded from the

state schools. It might be a good thing for all to come under the democratizing influence of the state schools. The determination of this question should be left to the discretion of those charged with the responsibility of training their young. The fundamentals may be required, and curricula satisfactory to the school authorities may be demanded. Moreover, the staff of instruction should be equal to that of the public schools. The fundamentals of American institutions may be required, and it may be forbidden to teach disrespect for the country or the flag. Measures may require a training for active American citizenship. But to exclude the private school is to give too much control over to the state. The state of Oregon prohibited anything but state instruction in the elementary schools. The Supreme Court properly held that such a law was an interference with a fundamental right of citizens to prescribe the form of their children's education.

The business of education is growing. The relation of government to education is becoming more intimate all the time. It is now essentially a problem of how large an educational burden the state may profitably bear.

CHAPTER XXXVI

THE NEW POLITICS AND CHARITY

The state must care for its unfortunates. The blind, the deaf, the feeble-minded, and the insane constitute a basic social charge. Institutions are provided for their confinement under conditions which are becoming increasingly more tolerable. The problem of poverty is a much more serious one. Something should be done, perhaps more than is done, to meet the situation. But it is possible to go so far that society could not stand the strain. Most states give their attention chiefly to the cases which require immediate relief, on the legitimate theory that it should help the man who is down when he is down. Great care is used in many situations to select the worthy cases. Little effort is made to get at fundamental causes. Better training and more education will help many people. Unemployment is responsible for much of it. Old age is perhaps the greatest cause. Should the government pension old people? Should a habit of extravagance be created by causing people to expect their pension at attaining the retiring age? Should mothers be pensioned merely because they are mothers? Should the state give doles to the unemployed? Such policies could, if extended indefinitely, bring the state into a condition of bankruptcy. No general rule can be laid down. But encouragement of thrift and saving, and measures of prevention are much preferable to a system of pensioning.

The business of charity is attended to in large measure by private agencies. Often the overhead is large, and the appeal for aid becomes a nuisance which bears on the patience of the ordinary citizen. Efforts at co-ordination have been attempted in the form of the "community fund," which many cities, large and small, have adopted. It has had some good effects, but has also professionalized charity and has developed a bureaucracy of administration and

control which is interested often in increasing its budget, enlarging its staff, and multiplying its activities. This attempt is in the experimental stage. Even private charity may become a social loss. It is estimated that sixty per cent of the annual budget of the community fund of a large western city is devoted to the interests of a large resident foreign population. These people are considered necessary to the industrial life of the community as employees. A check of their labor contribution indicates that the difference between their industrial value or contribution and the community fund support of their indigents reveals an enormous social loss. Such a discrepancy should not be borne by the community merely for the benefit of industry.

Payment of doles to able-bodied men, without their working in return, is bad psychology and has never worked. It is better to require some service in return, even though the contribution be in the form of a charity.

We have discussed the diversities of state activities as a positive matter. We have also discussed the extent of state intervention in a given number of cases. However, no principle has been laid down to determine when it is better for the government to intervene and when to leave the individual or the group free. Moreover, experience must teach the degree of interference. The place of the state in society is not unalterable, like the law of the Medes and Persians. It may have one function today and another tomorrow. Progress must be made step by step, year by year, and event by event. An exaggerated individualism cannot destroy the state; nor may an unreasonable collectivism enthrone it. In the zone between these invaluable concepts, there is a plane of reason, of common sense, of balance, of rationalism, and even of pragmatism. The bases of civilization are the individual and society. The state, as the agent of civilization, is the servant, but not the master, of both.

Nowhere is the interdependence of all world dwellers

more conspicuous than in the control of contagious diseases and infections generally. A coolie comes down with cholera in a hill village of India; a week later a score die a thousand miles away, and within a month ships have carried the pestilence to Germany and Mexico. Bacteria laugh at man-made boundaries and laws. They slip through the customs and defy embargoes. If man is to conquer these invisible foes, he must consolidate his battle front. And this he has been doing for half a century, with startling results.

Through international co-operation our medical scientists and field workers have checked the spread of cholera, yellow fever, the bubonic plague, and lesser epidemics. Government has worked with government, army has aided army; and already we see the beginning of the final victory over the most powerful clan of enemies against which our race has ever been arrayed. When victory comes, though, the work of vigilance cannot be relaxed. So international prevention of diseases will ever remain a necessity; and little by little it will strengthen the bonds between peoples.

Under the new politics of peace, our underlying principle must be that in charity as in medicine an ounce of prevention is worth a pound of cure. Charity in all of its usual forms is a confession of failure on the part of society. It is well to give alms to the poor, but it is better to forestall poverty. It is excellent to aid the Mississippi flood victims, but it is wiser to stop the floods. The first rule of statesmanship in matters now called charity is to anticipate human disasters. And as the complexity of causes at work in disasters increases apace with the interdependence of human affairs, the study of these causes becomes more and more a province set aside for experts. Already, at least in our more progressive cities, amateur benevolence is considered nearly as obnoxious as amateur medicine.

Eventually preventive charity will become in large

measure an international affair, especially in those aspects of it which deal with sudden poverty caused by world-wide economic depressions, plagues, typhoons, and earthquakes. The alleviative work now done by the International Red Cross must sooner or later be surpassed by anticipative surveys and proper preventive measures. Here is a field for international co-operation which, because least involved in the wrangles of national ambitions, may be agreed upon and supported jointly by many states.

CHAPTER XXXVII

THE NEW INTERNATIONALISM

The growing interdependence of all things human is limiting the natural powers of the state and its agents in a novel and profound manner. The daily problems of overseeing and controlling the affairs of men are becoming so intricate that no single eye can take in their variety and their interweavings, and no single mind can encompass their outworkings. Were you to visit Washington in these days, you would find scores of committees in session everywhere. Committees of bankers are listening to experts on foreign credits or war debts. Committees of bacteriologists are weighing various schemes for the control of insect pests. Committees of shoe manufacturers are pondering the new chemistry of tanning and its relation to the tariff. All imaginable committees, made up of business leaders, scientists, statisticians, and government officials, are there. And each committee speaks a language that is gibberish to all the other committees.

It has been said that the United States is now being managed by one or two hundred thousand men who are the leaders in the industries, arts, and sciences. And there is much truth in the statement. The march of progressive forces has spelled the retreat of executive and legislative dominance of the old style. No longer can the President, by simple debate with his Cabinet, decide any important government policy. No longer can Congress, merely by process of debate, settle the larger issues of statecraft. The special interests of the people lie largely beyond the legislator's knowledge, if not beyond his intellectual grasp. He must summon to his rescue a host of experts, or else commit monstrous follies of lawmaking. And it is fair to ask who truly makes the laws, the specialists who present the facts or the legislator who acts on their evidence.

Some observers bewail this state of affairs, but wrongly. For nothing is doing more to restore the essence of democracy than this trend. The people are coming to the government as never before. They come with technical information and technical advice; and, as never before, lawmakers yield to this advice, often for no better reason than their total inability to raise objections to it. In the ancient city state ten or fifteen thousand people used to assemble to debate the affairs of the community. Today in Washington ten or fifteen thousand come together in the course of probably a month or two for the same purpose. And each of this number possesses a training and experience in some field incomparably superior to that possessed by even the noblest of the Athenian statesmen. In the federal offices these visitors find other thousands of scientists and engineers and business experts in scores of bureaus; and one group meets and exchanges ideas with such other groups as are competent to think and act about the particular specialty under discussion.

The net result is vastly more like the ideal democracy than anything which has prevailed since the beginnings of our nation. At every turn the Government depends upon groups of citizens, who in turn depend a little upon the Government for the carrying out of their larger programs. In a very genuine sense the relation between the superior intellectual and economic classes is coming to resemble that between capital and labor. For centuries untold, the employer and the employee were at odds, having no obvious interdependence. Employers were able to hire and fire workers as they saw fit and to treat them as if they were a negligible factor in industry. But today, as a result of improved industrialization, the workers are coming to own the factories and are gaining a voice in their management. So the old opposition between boss and hireling fades. Thus too with government and the governed.

As this tendency becomes more and more marked, it

must approach a happy culmination in which government becomes more business-like, while business becomes more statesman-like. Techniques originally peculiar to manufacturing will be made available to federal bureaus, and at the same time the authority and permanence of governmental agencies will pass over more or less into industries. To be quite specific, it may turn out that the cement industry and the associations of highway engineers may be so closely interlocked with governmental policies that, whenever a slight business depression sets in, public funds will automatically be released for the building of roads, dams, dikes, culverts, bridges, and other massive concrete constructions in which thousands of temporarily idle workingmen may be employed. Or again, is it at all inconceivable that, in the course of another generation, our governments will be guaranteeing a good minimum income to all certified physicians and surgeons, as a matter of public policy? Perhaps these particular events will never occur; but they at least typify the sort that must come.

Are we over-optimistic when we assert that, through this natural and slow merging of government and the business of living, the greatest political reforms will probably be brought to pass? I think not. For, after all, the chief cause of political corruption has always been the separation of the masses of citizens from the current affairs of state. Whatever tends to overcome this chronic divorce must also overcome its evils. Once men see that their own prosperity is linked indissolubly with the proper consummation of some program which only the government can bring to fruition, they will take a fresh interest in governing.

A New Politics is arising slowly as an inevitable consequence of the new world whose magic outlines are rapidly becoming visible. All the old types of government, as well as all the old theories of politics which arose as interpretations of political practice and conditions, are turning out

to be, in one way or another, unsuitable to the environment in which radio, the motion picture, the airplane, modern medicine, surgery, and industrial chemistry, and all the other miracles of the twentieth century are the dominant factors.

The checks and balances which were devised in the better varieties of government before this century found full justification in the circumstances of their own day. When ignorance was all but universal, when distances which we now traverse in an hour by plane were a week's toilsome journey, and when news required longer to travel from village to village than it now requires to fly by ether from New York City to Peking, it was necessary to control government officials and the various divisions of the state, to play one off against the other, to require certain degrees of co-operation and agreement among them, all for the sake of thwarting corruption and tyranny. Today, though some of these old checks and balances still retain a little of their pristine vigor and value, they are trifling in contrast to the kinds of control now demanded.

Consider, for instance, the new need of devising some effective and just method of preventing the poisoning domination of government by propaganda, especially that which manages to fill the newspapers and the radio hour with alleged news that, in reality, is a cunning distortion or even a deliberate invention calculated to bend millions of people to support a nefarious project. Consider again the problem of allowing all the economic and social groups within the population to express themselves freely and to argue for whatever seems right to them, yet at the same time preventing them all from setting up what is in essence a secret government at Washington in the form of a huge lobby.

Or consider again the necessity of finding ways and means of controlling immense funds of money which may be used to corrupt the government through indirect channels. The art of buying and selling has advanced far, far

beyond the stage where it was when the American Constitution was adopted. And it is equally far in advance of all the special laws which have been passed to regulate trade and other transactions. Recent revelations in connection with the great Teapot Dome oil scandal show only too plainly the feebleness of existing governmental agencies in coping with the corrupt rich and their more corrupt lawyers.

It is almost inconceivable that the new internationalism will ever thrive without the support of enlightened nationalism. This inconceivability appears almost as certain as the hopelessness of a genuine politics of peace in a world dominated by the crude varieties of nationalism which now prevail. In the coming commonwealth of nations, may we not reasonably expect the nations to survive in somewhat the same manner as the states of the United States now exist? Is it not probable that many nations, though perhaps not all, will preserve a substantial identity solely by virtue of their occupying large tracts of the earth's surface which differ from all other states in surface, in crop yield, in climate, and in population?

There must always be local government. But how large is a locality? Plainly it may be of any size; and, as transportation and communication are perfected, communities will expand. What was a nation of vast proportions a thousand years ago is today a mere city. The metropolitan area of New York City is already as populous as Holland. By the year 2000 it may be as large as England, with a population of 60,000,000 or more. And the larger it grows, the weaker its identity as a political unit. No matter how much territory men may consolidate into a single political unit and call it a city, state, or nation, geography still remains geography; and men will regard their own community as a place bounded by the limits of their social visits or by their business transactions or by the range of their Sunday motor trips.

Likewise with states and nations. The oceans will always divide the lands, even though men span their watery wastes in a twinkling with super-airplanes. And the traditions of language and customs, which are only the habits of a region, will not grow less in the future.

Little by little the militarism which has been the curse of the nineteenth and twentieth centuries will pass over into a simple world police force. It will lose its function as a support of nationalism and imperialism, and will serve merely to preserve the peace. The gravest problem in this connection is: what kind of a peace will it preserve? If it is a *pax Romana,* there will be little peace for anybody.

The normal evolution away from militarism would appear to lead as the next step into a series of regional alliances and agreements among military powers for the preservation of the peace. Such acts on the part of powerful nations will always be open to easy misinterpretation as disguised aggressiveness. Nothing but the final outcome will ever reveal the truth here. The world must expect now and then to be cruelly cheated by little Caesars, but such disillusionment cannot argue against the general method. The suggestion has been made that the world will be brought to order and prosperity by four continental leagues of nations—one for the Americas, a second for Europe, a third for Africa, and a fourth for Asia. The underlying thought here is sound, no matter whether the prophecy comes true or not. It cannot be disputed that the probability of aggressive war is reduced every time an organization similar to the League of Nations is established somewhere, no matter how strong or how weak it may be.

Even such forms of government as Fascism, which accentuates many of the worst traits of nationalism and imperialism, will probably contribute a little to the future world order. It appears that certain types of peoples under certain adverse conditions of life can make the most of themselves only when severely regimented. An enlight-

ened world population will come to recognize that different laws and different methods are demanded in different places and at different times. There will be no attempt to institute a chain-store type of government in all parts of the world, no effort to standardize to the utmost everything from the League of Nations membership down to the designs of the buttonholes of the village policeman. Rather will the politics of peace be founded on an enlightened opportunism which will vary its behavior according to the circumstances with which men have to deal. There will be Fascist harshness in Rome, while amiable anarchy prevails in China; a lax semi-communism in Siberia, while semi-militaristic industrialism prevails in Pennsylvania. Form and pattern will result from men and places and times.

For many years to come, the new internationalism will bear striking resemblances to that bizarre medley of political and economic forces which interplayed during the formation and the decay of the Roman Empire. Many people having different customs, different philosophies of life, different practical problems, and different temperaments contributed their respective values to the common life as they were welded, more or less skilfully, into the central life of Roman citizenship. It was give and take, all along the line; and the Romans managed to respect and to appraise the ways and wishes of colonists and conquered peoples with much more patience and understanding than many American administrators have shown toward our immigrants or our dependents in the Philippines.

Still more striking will be the resemblance between the coming age of pacific politics and the methods of the British Empire, whose problems have, in the large, been almost the same as those which must arise in the near future between very large, powerful nations and very small, weak nations. A decent respect for the opinions of mankind will lead administrators to concede and to conciliate, for the sake of getting world harmony and achieving useful re-

sults. This will mean that all political theories will be ruthlessly compromised, as they should be. The outcome will appear, to the bookish student, a wildly inconsistent system—or lack of system. But all the inconsistencies will serve the higher consistency of a better life. Man does not exist for the state, still less for political theorists. The state and all theories exist for the sake of man; and if they cannot improve his lot, they stand condemned.

The democracy of tomorrow will not agree with any past theories of democracy. Its reality will be richer than anything the thinkers of old could foresee.

The foregoing discussion of the new internationalism leads to one conclusion of primary importance—the unity of civilization. We have only to look about us to know that this is so. The social sciences have become internationalized, and seek, through a better basis of social control, to make our international life more wise, more just, and more tolerable. Politics, education, ethics, history, journalism, jurisprudence, philosophy, psychology, anthropology, economics, and sociology are all making their contributions to the problem and the possibilities of peace. It is the problem of no single nation, continent, region, class, or discipline. It is the problem of mankind.

The arts and the sciences have also contributed to the unity of civilization. The fine arts are peculiarly international. Architecture, the drama, painting, sculpture, and music are the avenues of the soul to a higher life and a better understanding of peoples and nations. Schools and styles of architecture span centuries and disregard boundaries. The written and spoken drama affects all climes and all peoples. Portraits and pictures conserve for future generations the ideas and ideals of the past and the present. Statues and monuments have perpetuated vanished civilizations and have envisaged the future. And music, highest and noblest art of all, has expressed in song and rhythm

the emotions, sentiments, joys, sorrows, and, indeed, the souls of all mankind. The great artists can be claimed by no race, land, or creed. They are citizens of the world. Shakespeare, Euripides, Michelangelo, Liszt, Handel, and Caruso belong to the ages and to the world.

The same is true of letters. Languages and literature are said to divide mankind, and to be obstacles to international understanding. But it is really not so. The perpetuation of the languages in their pure form is good for civilization. Only the Greek language could have brought down to us the art, the philosophy, and the civilization of the Greeks. The Latin language would have modified it. And only Latin could have preserved to us the imperial, the military, and the legal systems of the Romans. Another language would have distorted it. English is the recognized language of commerce, French of diplomacy. Nearly all peoples not regularly employing these languages can on occasion speak one or both. Their official use by the League of Nations sets the seal of world approval on them. It is better to have no one exclusively international language. Then literature, the fruit of language, is international. Instruction in literature is offered under such headings as German, Scandinavian, French, Italian, and so forth. But this is merely because of its dependence upon language as a vehicle of expression. In thinking of the great writers, we do not think of England, France, Germany, or Italy, but of Shakespeare and Tennyson, of Victor Hugo and Anatole France, of Goethe, and of Machiavelli. What they have committed to paper is not merely national in appreciation and appropriation. The products of their pens belong to the world, because ideas, if worth while, will cover the earth as the waters cover the sea.

Science and technology lend their aid. The natural and physical sciences have made large contributions in substance and method to the peace of the world. It would take us too far afield to name them all. A few pertinent ex-

amples must do. Chemistry is distinctly an international science. It has great actualities and potentialities for social curse and social blessing. Physics is a universal science. Galileo and his law of gravitation and Millikan and his electrons have no special connection with any age, country, or allegiance. Astronomy, since the days of Copernicus, has blessed civilization through revelations as to the shape of our sphere and its relation to other heavenly bodies, and has made possible the making of instruments of aid to navigation and scientific expeditions. Moreover, astronomical observations must often be carried on in foreign territory. Science has several advantages as an instrument of international unity. In instruction it deals with ascertained facts, rather than with speculation. It appeals to the reason rather than to the emotions. It asks definite questions to which it expects rather definite, accurate, and dependable answers. Little is left to guesswork. Its findings are cold, factual, and impartial, and cannot be made the basis of political and social abuse through prejudice, ambition, selfishness, or intrigue. And its results are freely disseminated throughout the world for the benefit of mankind.

Technology, which is applied science, is also making civilization a unit. Aëronautics occupies a sphere where the state has hitherto exercised little or no jurisdiction, and proves that the foundation of the state need no longer be exclusively territorial. Engineering in all its aspects is of international interest and effect, whether chemical, civil, electrical, mechanical, or mining. A great canal to be built, a great stream to be dammed, a great watercourse to be spanned, are not merely local undertakings. Suez, Panama, Assuan, Boulder, and other names may be cited in proof of this. Mining is particularly an international technology. The great mines are located in all parts of the world. Capital to finance them, skill to operate them, and labor to man them come from different nations. The American people

have recently elected a President whose qualifications are scientific and technical. His profession has taken him all over the world. It has endowed him with a scientific mind, and a technical approach. Many factors contributed to his election. Not the least was the feeling that government is now an engineering problem, a complex thing, and may be approached with the same precision, skill, and technique as a scientific problem. The American Presidency, our greatest power in foreign relations, is no longer the monopoly of the lawyer and the politician. The way is opened to the scientist and the engineer. This courageous and progressive step should reflect itself in a more detached and scientific approach to our international problems.

Medicine, too, is international. Health, individual and public, is a world problem. Disease has no regard for frontiers. The League of Nations has recognized this in the organization of its health section. The elimination of pests, epidemics, and plagues is for the good of all, and the health forces of the world must join to combat them. The nurse, protected by Red Cross or Red Crescent, ministers impartially to stricken mankind.

Science and technology have now created the means for the dissemination of information, the communication of ideas, and the transportation of men and goods. The radio, the cable, the telegraph and telephone, the airplane, the railroad, the steamship, the press, the moving picture with its power to record sound as well as to depict moving life, the phonograph—these and more are at the service of mankind. They will increase and improve. The problem is whether we shall have ideas and knowledge to broadcast in keeping with the present and future means available. As Charles Austin Beard has declared, time, technology, and a creative spirit have changed the whole aspect of civilization, and politics must yield to it, including the politics of peace, or disappear as a force in the world.

But what of the future? The politics of peace must be

a progressive and a moving force. It cannot stand still. Just as we must work at the arts of peace, we must work daily at the politics of peace. Much still remains after the renunciation of war and the achievement of the unity of civilization through the social disciplines, the fine arts, letters, the natural sciences, and the technologies. What must be done, now and in the future, to assure a genuine and lasting politics of peace? I venture to suggest a working basis:

1. *An effective democratization of government.* The Great War was to make the world safe for democracy, but democracy itself is still to be perfected. Government must be made more scientific. General theories must give way to specific facts. Experiment and experience must be the foundation of the political science of the future just as they have been of the exact sciences in the past.

2. *An intelligent public opinion must be developed.* Democracy has been chosen as the governmental system of the future. No stream can rise higher than its source, nor can any democratic government progress without an alert and intelligent electorate.

3. *Majorities must respect the rights of minorities.* There must be a greater development of the spirit of "live and let live" within the state. The spirit of intolerance in law, in religion, in politics, and in race must depart.

4. *Social control should be developed in keeping with scientific advance.* The scientific laboratories have outdistanced the social sciences in the matter of discovery. Social discovery must teach us to make wise use of scientific discovery, which has placed in our hands the possible instruments of our destruction. The answer is free thought and social truth, which is now and has always been "the solvent of despotism and the stimulus of progress."

5. *A divorcement of militarism from politics.* We have in international law a law of peace and a law of war. We need a definitive politics of peace. The control of the mili-

tary authorities by the civil, now happily established in most democracies, should become universal. Politics should be a process of peace.

6. *Diplomacy should be restored to its position as a process of peace.* The foreign office is not an appendage of the war department. The diplomatic service should not be considered in the light of a series of military outposts. The soldier is properly taught to strike when so authorized and commanded. The diplomat is taught to persuade. When trouble comes, the soldier would strike, but the diplomat would negotiate. The diplomatic mind should control as long as there is a basis for negotiation, and it should become as discreditable to allow a controversy, which might honorably be avoided, to drift into war as it is to lose a war.

7. *A technique should be developed which will absorb the will to conflict and to fight.* A channel of expression and even of controversy through amicable means is needed. The tendency to differ and to support our differences is not altogether an evil. A technique of controlled discussion and controversy would perhaps direct these tendencies, rather than eliminate them.

8. *War must be made more and more impolitic through renunciation.* This may be done through treaties and in other positive ways. Such a policy will have its difficulties and inconveniences, but it will be worth the sacrifices to live up to the obligation.

9. *War must be made illegal as well as impolitic, not only as a means of inflicting an injury, but as a means of redressing one.* To this end the determination of causes and the fixing and enforcement of penalties cannot for all time be left in the hands of contending parties. Unless we make less use of war as a means of redressing injuries, the vicious cycle of conflict will continue.

War should be made illegal except (*a*) in support of a legal right, duly ascertained; and (*b*) in self-defense.

10. *There should be established in international law a universal standard of conduct, internationally recognized.* This will mean the codification of international law. There will always be different interpretations of international law. The difficulty is that the nations have often not interpreted the same thing. And the standard of conduct for one should be the standard for all.

11. *The category of justiciable questions must be enlarged and that of non-justiciable questions diminished.* The exceptions of national honor, vital interests, and sovereignty have opened the way to war and have nullified the effectiveness of peace arrangements. Happily, the anti-war treaty avoids them. The exceptions should be revised downward rather than upward.

12. *Governments should be limited, and intrusted with power, in the interest of peace.* Just as a fundamental constitution may limit a government in the interest of civil and political liberty, so the government should be limited in its international activities in the interests of peace and legal equality. And just as a government may be given power to protect its citizens in the enjoyment of their rights and property, so government should be given power, through appropriate channels, to protect the peace of nations and to proceed against an aggressor state. These are consistent, not contradictory propositions. We must reconcile the liberty of a nation's action with international law and authority.

13. *The limitation of armament must continue.* A sound basis for this is limitation by agreement, rather than by example. Absolute disarmament, or disarmament by example, is hardly possible. Failures to agree should not discourage us. One failure may, through an understanding of its causes, lead to a great success.

14. *The rights of neutrals in maritime war must be redefined, if neutrality is to continue.* This question, which relates directly to the freedom of the seas, is at bottom the

real difficulty between the United States and Great Britain as regards limitation of armament. In the Great War our neutral position became intolerable; so we welcomed the belligerent status. We went to war to defend our neutral rights. Must we inevitably do so? Is it true that in every major maritime conflict we shall be drawn in because of the inconveniences of the neutral status and the impossibility of preserving our neutral rights? If so, shall we not be fighting for something which cannot be preserved, and condemning ourselves to future maritime war, no matter how remotely we may be affected or interested?

15. *The foreign offices must be reorganized in the interest of the peace needs of the people, and in keeping with the growing democratization of foreign policy through popular control.* The agency of diplomatic intercourse must articulate with the policy-determining authority—the people. A diplomatic service is no better than the foreign department.

16. *We must refuse to lose the issue in a battle between social categories and social attitudes.* The peace question is greater than any party, faith, group, class, or interest. Our usefulness and scientific approach are lost through our being catalogued as militarists or pacifists. We must not be "tagged" in our international thinking, but must seek the truth, which alone will set us free.

Such a program for a politics of peace, while open to some objection, has certain advantages. In the first place, these things are all thus far unrealized, and those initiated in one case or another, are incomplete. Then, to achieve an ordered world, they are positively necessary. They are not empty abstractions but are essential bases for peace in the world. Finally, they are, as President Roosevelt once used the term, "realizable ideals." They are within the range of possibility, and serve to reduce the politics of peace to manageable proportions.

Do not tell me that these are the proposals of an idle

dreamer. Say not that the world is not ready to put them into effect. They constitute the mountain we must climb if we would occupy rather than merely view the promised land. On these foundations the politics of peace rest. They do not seek to destroy the state nor to "exalt it in exaggerated form." They seek to restrain and limit it, thereby to strengthen it, in the interest of peace and order. They will run counter to the immediate interests and operating course of certain states. But we must remember the unity of all things, especially of civilization; for, in the words of the great Goethe, "Above the Nations is Humanity."

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